BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

TRIVIUM CHARTER SCHOOL,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2020010158

ORDER DENYING MOTION FOR STAY PUT

JANUARY 28, 2020

On January 20, 2020, Student filed a motion for stay put within her Prehearing Conference Statement. On January 24, 2020, at the Prehearing Conference the parties presented oral arguments with regard to Student's motion. Trivium Charter School opposed the motion on the ground that the pending matter involves the sole issue of Trivium's right to assess Student, and there is no current dispute regarding placement.

APPLICABLE LAW

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); Ed. Code, § 56505 subd. (d).) This is referred to as "stay put." For purposes of stay put, the current educational placement is typically the last agreed upon and implemented individualized educational

program, called IEP, placement prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

In California, "specific educational placement" is defined as "that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs," as specified in the IEP. (Cal. Code Regs. tit. 5, § 3042, subd. (a).)

DISCUSSION

Trivium established that Student's current program and services are not at issue in the pending matter. Here, Student has not alleged that a dispute exists with respect to Student's placement. If a dispute exists, Student may file a request for stay put with more specificity as to the nature of the dispute and the terms of stay put. The motion for stay put is denied.

IT IS SO ORDERED.

DATED: January 28, 2020

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Cararea Lucier
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Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings