BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: CORONA-NORCO UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2018060621 ORDER DENYING MOTION FOR STAY PUT

On June 14, 2018, Corona-Norco Unified School District filed a request for due process hearing with the Office of Administrative Hearings, naming Parents on behalf of Student. On June 18, 2018, Student filed a motion for stay put. District filed an opposition on June 21, 2018. Student filed a reply on June 22, 2018.

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 placement called for in the student's individualized education program, which has been implemented 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).)

A school district has the right to select the service provider so long as the provider is able to meet the student's needs. Parents are not entitled to select a school district's service provider. (*Slama v. Independent School Dist. No. 2580* (D. Minn. 2003) 259 F. Supp.2d 880, 885 [refusal to assign service providers of parent's choice does not result in a denial of a FAPE.]; *N.R. v. San Ramon Valley Unified School Dist.* (N.D.Cal. January 25, 2007, No. C 06-1987 MHP) 2007 WL 216323, at p.7; parents are not entitled to their preferred provider.].)

DISCUSSION

District's sole issue for this matter is whether it appropriately assessed Student in the area of occupational therapy, so that it is not required to fund an independent educational evaluation, as requested by Student. The basis of Student's motion for stay put is that District has selected a new instructional assistant for Student. There is no other allegation that District has unilaterally changed Student's special education placement during the pendency of the due process hearing for this matter.

Student misinterprets District's change of personnel as a change of his special education placement, and requests that his previous instructional assistant be provided by District during the pendency of the due process hearing. However, as established by the above authority, school districts are permitted to select its service providers so long as the provider is qualified. Therefore, changing a service provider does not constitute a change of educational placement. For those reasons, Student's motion is denied.

ORDER

Student's motion for stay put is denied.

DATE: June 27, 2018

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Paul Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings