BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: MENIFEE UNION SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018041172 ORDER DENYING MOTION FOR STAY PUT

On May 7, 2018, Student filed a motion for stay put. District did not file an opposition.

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).)

DISCUSSION

Student complained that District unilaterally deleted language in the Present Levels of Academic Achievement and Functional Performance section of the health summary in the last agreed upon November 15, 2016 individualized education program which stated, "Staff should not provide services if they are sick or exposed to other ill people." Student argued that this language should not be deleted in District's proposed December 4, 2017 IEP because she was entitled to stay put.

Stay put applies to District's offer of educational placement and services. Since the language was part of the information which appeared in the health summary present

performance levels, and not part of District's free appropriate public education offer, this is not a subject for which stay put applies. Student presented no evidence that District made any change to Student's educational program in regards to the provision of services to Student by service providers who may be ill or exposed to ill persons.

ORDER

Student's motion for stay put is denied.

IT IS SO ORDERED.

DATE: May 11, 2018

DocuSigned by:
Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings