BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LONG BEACH UNIFIED SCHOOL DISTRICT .	OAH Case No. 2018090758 ORDER GRANTING MOTION FOR STAY PUT

On September 25, 2018, Student filed a motion for stay put requesting that Student's bus transportation to his school site be reinstated pending the outcome of the due process hearing. On September 28, 2018, District filed an opposition on the ground that at all times Long Beach Unified School District has offered Student a free means of transportation; thus the motion for stay put is moot.

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)[1]; 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).) Thus, Student's transportation is considered a part of his placement.

DISCUSSION

Student is four years old and eligible for special education under the category of autism. Student's individualized education plan provides for bus transportation to and from school which he has received since the beginning of the 2018-2019 school year. On the

[1] All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

morning of September 17, 2018, Father made a statement to the substitute bus driver which Long Beach interpreted as a threat against the regular bus driver.

Long Beach issued a letter on September 21, 2018, informing Parents that, due to the alleged threat, Father was prohibited from being within 100 feet of any school bus that transports his children and may not visit the school campus, including dropping off or picking up his children from school, absent written permission from the Special Education Director. Long Beach offered to reinstate transportation for Student beginning Monday October 1, 2018 provided someone other than Father was in charge of bringing the children to and from the bus.

Parents filed this stay put motion requesting a "motion for stay put regarding [Student's] transportation services," based on the last agreed upon IEP, which provided bus transportation for Student to and from school without any conditions regarding who would escort Student to the bus. Long Beach argues that it has reinstated the same transportation services Student was receiving in his IEP. However, Long Beach's position overlooks the fact that they imposed conditions on the transportation that were not imposed in the last agreed and implemented IEP. Student is entitled to stay put pending determination of this case including transportation services provided without newly imposed conditions.

ORDER

Student's motion for Stay Put is GRANTED.

IT IS SO ORDERED.

DATE: October 2, 2018

DocuSigned by:
Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings