

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

PARENT ON BEHALF OF STUDENT,

V.

LOS ALAMITOS UNIFIED SCHOOL DISTRICT.

CASE NO. 2024050742

DECISION

November 07, 2024

On May 17, 2024, the Office of Administrative Hearings, called OAH, received a due process hearing request from Parents on behalf of Student, naming Los Alamitos Unified School District, called Los Alamitos. The due process hearing was continued on June 21, 2024. Administrative Law Judge Ted Mann heard this matter by videoconference on September 4, 5 and 6, 2024.

Student's mother, called Parent, appeared on behalf of Student. Attorney Tracy Petznick Johnson represented Los Alamitos. Grace Delk, Los Alamitos' Director of Special Education and Mental Health, attended all hearing days on Stockton's behalf.

At the parties' request the matter was continued to October 7, 2024, for written closing briefs. The record was closed, and the matter was submitted on October 7, 2024.

## ISSUES

1. Did Los Alamitos deny Student a free appropriate public education, called a FAPE, from May 20, 2022 through June 30, 2022, by:
  - A. by failing to offer Student a residential placement from May 20, 2022 through May 23, 2022; and
  - B. by failing to provide a residential placement for Student from May 23, 2022 through June 30, 2022?

## JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, referred to as the IDEA, its regulations, and California statutes and regulations. (20 U.S.C. § 1400 et. seq.; 34 C.F.R. § 300.1 (2006) et seq.; Ed. Code, § 56000 et seq.; Cal. Code Regs., tit. 5, § 3000 et seq.) The main purposes of the IDEA are to ensure:

- all children with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living, and
- the rights of children with disabilities and their parents are protected. (20 U.S.C. § 1400(d)(1); See Ed. Code, § 56000, subd. (a).)

The IDEA affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511; Ed. Code,

§§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents, and has the burden of proof by a preponderance of the evidence. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62 [126 S.Ct. 528, 163 L.Ed.2d 387]; and see 20 U.S.C. § 1415(i)(2)(C)(iii).) Student had the burden of proof in this matter. The factual statements in this Decision constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. § 1415(h)(4); Ed. Code, § 56505, subd. (e)(5).)

Student was an 18-year-old college freshman at the time of hearing. Student graduated with a regular high school diploma from Los Alamitos at the end of Spring 2024. Student resided within Los Alamitos' geographic boundaries at all relevant times. Student was eligible for special education under emotional disturbance.

#### ISSUE 1.A: DID LOS ALAMITOS DENY STUDENT A FAPE BY FAILING TO OFFER STUDENT A RESIDENTIAL PLACEMENT FROM MAY 20, 2022 THROUGH MAY 23, 2022?

Student contends that Los Alamitos denied Student a FAPE by failing to offer a residential placement from May 20, 2022 through May 23, 2022. Student asserts they required residential placement due to their inability to access their education due to increasing risky behavior, including potential self-harm, absences from school, difficulty completing assignments, and the inability to maintain a domicile.

Los Alamitos contends that it offered Student a FAPE from May 20, 2022 through May 23, 2022 through its individual educational programs, called an IEPs, dated March 1, 2022 and March 17, 2022. Los Alamitos also contends that based upon the information

known to the IEP team, Student's continued placement per the March 1, 2022 and March 17, 2022 IEPs offered Student a FAPE during the period in question. Relatedly, Los Alamitos further contends it was not required to offer a residential placement while it was undertaking a mental health evaluation of Student during the period in question.

A FAPE means special education and related services that are available to an eligible child that meets state educational standards at no charge to the parent or guardian. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17.) Parents and school personnel develop an IEP for an eligible student based upon state law and the IDEA. (20 U.S.C. §§ 1401(14), 1414(d)(1); and see Ed. Code, §§ 56031, 56032, 56341, 56345, subd. (a) and 56363 subd. (a); 34 C.F.R. §§ 300.320, 300.321, and 300.501.)

In general, a child eligible for special education must be provided access to specialized instruction and related services which are individually designed to provide educational benefit through an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (*Board of Education of the Hendrick Hudson Central School Dist. v. Rowley* (1982) 458 U.S. 176, 201-204; *Endrew F. v. Douglas County Sch. Dist. RE-1* (2017) 580 U.S. 386, 402 [137 S.Ct. 988, 1000].)

A claim that an IEP failed to offer a FAPE is evaluated in light of information available at the time the IEP was developed; the IEP is not judged in hindsight. (*Adams v. State of Oregon* (9th Cir. 1999) 195 F. 3d 1141, 1149.) An IEP is a snapshot, not a retrospective. (*Ibid.*, citing *Fuhrmann, supra*, 993 F.2d at p. 1041.) It must be evaluated in terms of what was objectively reasonable when the IEP was developed. (*Ibid.*)

In resolving the question of whether a school district has offered a FAPE, the focus is on the adequacy of the school district's proposed program. (See *Gregory K. v. Longview School Dist.* (9th Cir. 1987) 811 F.2d 1307, 1314.) For a school district's offer

of special education services to a disabled pupil to constitute a FAPE under the IDEA, a school district's offer of educational services and/or placement must be designed to meet the student's unique needs, comport with the student's IEP, and be reasonably calculated to provide the pupil with some educational benefit in the least restrictive environment. (*Ibid.*)

Educational benefit is not limited to academic needs. Behavioral and emotional needs must be addressed through an IEP if they affect academic progress, school behavior, or socialization. (*County of San Diego v. California Special Educ. Hearing Office* (9th Cir. 1996) 93 F.3d 1458, 1467 (*County of San Diego*).) When a child's behavior impedes his learning or that of others, the IEP team must consider strategies, including positive behavioral interventions, and supports, to address that behavior. (20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.324(a)(2)(i); Ed. Code, § 56341.1, subd. (b)(1).) An IEP that does not appropriately address behaviors that impede a child's learning denies the child a FAPE. (*Neosho R-V School Dist. v. Clark* (8th Cir. 2003) 315 F.3d 1022, 1028-1029; *County of San Diego, supra*, 93 F.3d at pp. 1467-68.)

The student's placement must be determined at least annually. The placement must be based on the child's IEP and be as close as possible to the child's home, unless the IEP of a child with a disability requires some other arrangement. In determining the educational placement of a child, the public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, and the meaning of the evaluation data. (Ed. Code, § 56341.)

Generally, the appropriate placement option is the least restrictive environment in which the child can be educated. The IDEA requires school districts ensure that children with disabilities are educated alongside their nondisabled peers “[t]o the maximum extent appropriate.” (20 U.S.C. § 1412(a)(5)(A).) School officials may remove a disabled child from the regular classroom “only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” (*Ibid.*) This provision reflects the IDEA’s “strong preference” for educating children with disabilities in a regular classroom environment. (*Poolaw v. Bishop* (9th Cir. 1995) 67 F.3d 830, 834(*Poolaw*).)

Here, Student established by a preponderance of the evidence that Los Alamitos denied Student a FAPE by failing to place Student in a residential program for the period from May 20, 2022, to May 23, 2022, as Student continued to spiral out of control in March, April and May of 2022.

## STUDENT’S RECENT HISTORY BEFORE INITIAL IEP

Student had behavioral and emotional issues beginning as a toddler and continuing through grade school. Student had a history of problems at home and a difficult relationship with her mother. She also had a recent history of suicidal ideation and researched suicide, along with instances of physical self-harm. Student was diagnosed with anorexia, generalized anxiety disorder, and major depressive disorder, and was taking daily medication for irritability and anger. Student’s anger and physical violence toward her mother escalated late in 2021. Following a violent outburst towards Parent in mid-November 2021, Student was placed in a temporary shelter, Casa Youth.

Once at Casa Youth, Student began missing school due to therapy demands and her inability to attend the high school campus. After spending a number of weeks at Casa Youth, Student transitioned to a second youth shelter, the 1736 shelter in Los Angeles. Student stayed there for two to three weeks and then transitioned from the shelter because Student used up the maximum time for a stay at that shelter.

Following the 1736 shelter, Student transitioned to a shelter in Mentone in Riverside County. Student spent approximately two to three weeks at the shelter in Mentone, including for their 16th birthday. Student appeared to be improving at Mentone, and Parent brought Student back home.

Upon returning home in early January 2022, Student's behavior towards Student's mother again deteriorated. Parent found stolen money and gift cards in Student's room at home and confiscated them. Student's reaction was a severe tantrum, feigning an injury and threatening Parent with child protective services. The police were called, and Student was ultimately taken to the emergency room for an evaluation.

Student then began an intensive outpatient program in Cerritos, attending school during the day and therapy in the evening. Student received treatment for her eating disorder and for behavioral and mental health issues. From the Cerritos program Student went to an inpatient program at Center for Discovery in Thousand Oaks. She stayed at that program for approximately four to five weeks in February and March of 2022. Student was at the Center for Discovery at the time of the March 1, 2022 IEP.

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## MARCH 1, 2022 IEP

At Student's initial IEP team meeting on March 1, 2022, Los Alamitos offered Student the following for the remainder of the 2021-2022 school year through March 1, 2023:

- Placement: general education for 100 percent of the school day at Los Alamitos;
- Specialized academic instruction: 1 period per day via the Academic Lab;
- Vocational assessment, counseling and guidance: 60 minutes yearly;
- Individual counseling: 60 minutes weekly provided through a nonpublic agency;
- Parent counseling: 60 minutes twice monthly through a nonpublic agency;
- Consultation: 30 minutes monthly check-ins with IEP case manager to monitor progress.

## STUDENT'S HISTORY FOLLOWING MARCH 1, 2022 IEP

Students was discharged from Center for Discovery on March 7, 2022. Student began a partial hospitalization program on March 8, 2022, where she would receive intensive therapy and live at home. On March 8, 2022, while at home, Parent found and confiscated Student's hidden cellphone and Student physically assaulted Parent. Student was removed from the home and began living at Angel's Flight youth shelter.

While living at Angel's Flight, Student began dating another Angel's Flight resident. Student told Student's grandparents that Student had gotten pregnant at a youth shelter, and grandparents told Parent. When confronted by Parent, Student first



claimed that the pregnancy was a joke, and then changed the story to affirm that Student was pregnant. Student later eloped from the Angel's Flight facility to visit a friend living in a drug rehabilitation facility in Riverside County.

On March 17, 2022, Los Alamitos held an amendment IEP team meeting to memorialize Student's placement in home hospital, recommended by Student's physician, while participating in the partial hospitalization program. As part of the home hospital placement, Los Alamitos offered Student five hours per week of specialized academic instruction. Student's participation in the academic instruction portion of home hospital was inconsistent and trailed off after she initially participated.

On May 17, 2022, Student returned home to live with Parent. Student stole approximately \$80,000 in cash from Parent, later discarding most of it in an alley. Student was ultimately apprehended by the police and almost all of the remaining money was recovered. Student purchased approximately \$1,500 in gift cards at Target before being apprehended. Parent learned that Student had been connected with a sex trafficker through a friend at Angel's Flight. Student intended to fly to Detroit to meet up with the sex trafficker using the stolen funds for an airplane flight and Uber.

## PARENT'S FIRST REQUEST FOR A RESIDENTIAL TREATMENT PLACEMENT

Following the incident with the discovery of the illicit cell phone, Parent began exploring options for therapeutic residential treatment programs for Student. Parent researched and contacted a variety of programs that could possibly serve Student, including programs at Sorenson Ranch and New Haven, both therapeutic programs in Utah with academic components.

On March 21, 2022, based upon Student's conflicting reports of pregnancy, continued physical and verbal abuse of Parent, and inability to attend school in-person, Parent requested that Los Alamitos place Student at a therapeutic residential treatment center at public expense. Parent sent the request in an e-mail to the Los Alamitos school psychologist who had conducted the psychoeducational assessment of Student, dated March 1, 2022. Parent also included Student's high school counselor, Christy Ricks, Los Alamitos' vice principal, Cara Vienna, and Student's case manager, Heidi Pelle-Reid in the correspondence.

On March 24, 2022, Los Alamitos sent prior written notice declining the request. Instead, Los Alamitos made a behavioral health referral to Orange County mental health services, initiated that same day with Parent's approval. The request for mental health services was intended to begin an assessment of Student's needs regarding a residential treatment center placement.

## PARENT'S SECOND REQUEST FOR A RESIDENTIAL TREATMENT PLACEMENT

On March 28, 2022, Parent again wrote to Los Alamitos staff requesting public funding for a residential program for Student. Parent addressed her e-mail to Grace Delk, Los Alamitos' director of special education and mental health, along with Heather Sherrill, a special education administrative assistant. Parent provided Los Alamitos with a summary of the recent issues with Student that Parent felt supported the request for a residential program. The reasons included Student's ongoing placement in various therapeutic programs to address Student's mental health, continuing violence towards Parent by Student when at home, and Student's difficulty accessing their education during this time. Parent also notified Los Alamitos that the March 1, 2022 IEP no longer

addressed Student's needs. On March 24, 2022, Los Alamitos again declined the request for a residential treatment center through prior written notice stating that the information available to the team supported the currently offered placement.

### PARENT'S THIRD REQUEST FOR A RESIDENTIAL TREATMENT PLACEMENT

On April 21, 2022, Parent wrote to Delk and Sherrill requesting public funding for a therapeutic boarding school for Student. Parent also advised Delk and Sherrill that Student's ability to gain admission to the New Haven program was contingent on Student demonstrating an ability to function at a prior residential program. Parent proposed the Aspiro Wilderness program as that predicate program.

On May 4, 2022, for a third time, Los Alamitos declined parent's request and continued to assert its belief that Student had been offered a FAPE based upon information available to the team. Los Alamitos also noted that the Orange County mental health assessment was then ongoing.

### PARENT'S NOTICE OF STUDENT'S PRIVATE PLACEMENT

On May 20, 2022, Parent wrote to Student's IEP team members, including the assistant principal, Student's counselor and the school psychologist, informing them that Student was being immediately placed at the Sorenson Ranch facility, and that a transport team was enroute to pick up Student. Parent indicated that they would be seeking reimbursement from Los Alamitos for the cost of transport and the placement. Although, Parent had recently requested the Aspiro program, Parent had also been in contact with Sorenson and felt that it better suited Student's needs.

Here, The March 1, 2022 IEP offer failed to consider and adequately address Student's social emotional needs and Student's mental health needs. The IEP offer also failed to address Student's itinerant status, particularly including Student's recent history beginning in approximately November of 2021, wherein Student began to live at a series of youth shelters, and partial hospitalization or full hospitalization programs due to her inability to live at home safely with her mother and brother. These factors significantly impaired Student's ability to access their education, and support the conclusion that the appropriate placement for Student at that time was a residential treatment program.

Los Alamitos contends that the Student's then-existing placement provided Student a FAPE. However, even allowing for the change of Student's program to home hospital as of March 17, 2022, Student was not receiving the program and supports necessary to meet Student's needs and enable Student to make progress appropriate in light of her circumstances. Student could not live at home, but was also unable to access their education while at youth shelters or in other therapeutic settings during the period before and after March 1, 2022, extending up to May 20, 2022. Student was a flight risk and engaged in increasingly risky behavior after March 17, 2022 and before May 20, 2022, including claims of pregnancy, stealing, violence against Parent, and elopement. Without a stable therapeutic program such as a residential treatment center, Student was unable to access her education.

Los Alamitos also asserts that it was required to follow a specific process in determining whether Student needed a residential placement, and that any delay occasioned by that process was permissible. Based on information that was provided by Parent and others, Los Alamitos began the process to determine residential placement needs on March 24, 2022. Testimony by Los Alamitos personnel, particularly director

Delk, was unconvincing that such a determination could not have occurred prior to the eventual IEP team meeting on May 23, 2024, where Student was offered a residential treatment center placement. In fact, Delk testified that under certain emergency circumstances the district could move quickly to place a student in a residential program. As such, Los Alamitos failed to establish that it provided Student with a FAPE from May 20, 2022, to May 23, 2022, or that district was entitled to ignore Student's behavioral crisis and work on a pre-determined timeline to decide whether Student needed a residential placement.

Student established by a preponderance of the evidence that Los Alamitos denied Student a FAPE by failing to offer Student a residential placement from at least May 20, 2022, through May 23, 2022, due to Student's increasingly risky behavior, including

- potential self-harm,
- absences from school,
- elopement,
- physical violence towards Parent,
- difficulty completing assignments, and
- inability to maintain a domicile.

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ISSUE 1.B.: DID LOS ALAMITOS DENY STUDENT A FAPE BY FAILING TO PROVIDE STUDENT A RESIDENTIAL PLACEMENT FROM MAY 23, 2022, THROUGH JUNE 30, 2022?

Student argues that Los Alamitos denied Student a FAPE by failing to provide Student a residential placement from May 23, 2022 through June 30, 2022 to address Student's increasingly risky behavior, including potential self-harm, inter-state elopement risk, absences from school, difficulty completing assignments, physical abuse of Parent and inability to maintain a domicile.

Los Alamitos argues that it offered Student a FAPE during the period from May 23, 2022, through June 30, 2022, based upon the May 23, 2022 IEP, in which district offered Student a residential treatment center placement. Los Alamitos further argues that it was legally entitled to not actually place Student at a residential treatment center until it had completed the necessary assessments, reviews, investigation, information gathering, applications, site inspections and other due diligence prior to physically placing Student at a residential treatment facility, no matter how long it took to do so.

A school district must implement all components of a student's IEP. (20 U.S.C. § 1414(d)(2)(A); 34 C.F.R. § 300.323(c).) When a student alleges the denial of a FAPE based on the failure to implement an IEP, in order to prevail, the student must prove that any failure to implement the IEP was "material," which means that the services provided to a disabled child fall "significantly short of the services required by the child's IEP." (*Van Duyn v. Baker School Dist. 5J* (9th Cir. 2007) 502 F.3d 811, 822 (*Van Duyn*).) A minor discrepancy between the services provided and the services required in the IEP is not enough to amount to a denial of a FAPE. (*Ibid.*) "There is no statutory requirement

of perfect adherence to the IEP, nor any reason rooted in the statutory text to view minor implementation failures as denials of a free appropriate public education." (*Ibid.*) A brief gap in the delivery of services, for example, may not be a material failure. (*Sarah Z. v. Menlo Park City School Dist.* (N.D.Cal., May 30, 2007, No. C 06-4098 PJH) 2007 WL 1574569 at p. 7.)

"[T]he materiality standard does not require that the child suffer demonstrable educational harm in order to prevail. However, the child's educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided." (*Van Duyn, supra*, 502 F.3d at p. 822.)

Here, Los Alamitos failed to implement Student's placement in a residential treatment center for at least five weeks following the IEP teams' determination that Student needed placement in a residential facility. Not only did the delay result in a procedural violation, but it was a material violation in this instance, denying Student a desperately needed placement.

## MAY 23, 2022 IEP TEAM MEETING

Los Alamitos noticed and held an IEP team meeting on May 23, 2022, to respond to Parent's third request for residential placement for Student. The mental health assessment begun on March 24, 2022, was presented to the team. The mental health assessment recommended residential placement. Parent shared additional information including a private mental health assessment of Student, along with Parent's summary

of Student's recent behavior and reasons and reasoning behind Student's placement at Sorenson Ranch. The IEP team determined that the appropriate placement for Student was a residential treatment center.

What occurred following the May 23, 2022 IEP team meeting was a series of administrative, procedural, and bureaucratic delays that prevented the district from implementing the placement. Student was in crisis and needed immediate placement in a residential program as demonstrated by the events leading up to Parent's unilateral placement of Student at Sorenson Ranch on May 20, 2022. Los Alamitos' delay in implementing Student's placement was both a procedural violation of the IEP and a material failure to provide needed services for Student in a timely fashion. Student demonstrated as much by a preponderance of the evidence.

Los Alamitos asserts that it was compelled to follow a set of procedures occasioned by various administrative, procedural and bureaucratic processes. However, Los Alamitos failed to establish that Student could not have been placed much more quickly under the emergency circumstances that existed in this particular case.

As such, it is found that Los Alamitos denied Student a FAPE from May 23, 2022, through June 30, 2022, by materially failing to implement its offer of residential placement.

## CONCLUSIONS AND PREVAILING PARTY

As required by California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to which each party has prevailed on each issue heard and decided.



## ISSUE 1.A.:

Los Alamitos denied Student a FAPE when it failed to offer Student a residential placement from May 20, 2022, through May 23, 2022.

Student prevailed on Student's Issue 1.A.

## ISSUE 1.B.:

Los Alamitos denied Student a FAPE when it failed to provide Student a residential placement from May 23, 2022, through June 30, 2022.

Student prevailed on Student's Issue 1.B.

## REMEDIES

Student prevailed on Issues 1.A. and 1.B.

As a remedy, Student requested in their complaint that Los Alamitos reimburse Parent for the cost of Student's transportation to Sorenson Ranch and for the cost of Student's placement at Sorenson Ranch from May 20, 2022, to June 30, 2022.

Courts have broad equitable powers to remedy the failure of a local educational agency to provide a FAPE to a child with a disability. (20 U.S.C. § 1415(if)(1)(C)(iii); Ed. Code, § 56505, subd. (g); see *School Committee of the Town of Burlington, Massachusetts v. Dept. of Education* (1985) 471 U.S. 359, 369 [105 S.Ct.1996]; *Parents of Student W. v. Puyallup School Dist.*, No. 3 (9th Cir. 1994) 31 F.3d 1489, 1496 (*Puyallup*.) The conduct of both parties must be reviewed and considered to determine whether equitable relief is

appropriate. (*Id.* at p. 1496.) This broad equitable authority extends to an ALJ who hears and decides a special education administrative due process matter. (*Forest Grove Sch. Dist., v. T.A.* (2009) 557 U.S. 230, 240 [129 S.Ct. 2484, 174 L.Ed.2d 168].)

A parent may be entitled to reimbursement for placing a student in a private placement without the agreement of the local school district if the parents prove at a due process hearing that the district had not made a FAPE available to the student in a timely manner prior to the placement, and the private placement was appropriate. (Ed. Code, §56175; 20 U.S.C. § 1412(a)(10)(C)(ii); 34 C.F.R. § 300.148(c); see also *School Committee of Burlington v. Department of Ed.* (1985) 471 U.S. 359, 369-370 [105 S. Ct. 1996, 85 L. Ed. 2d 385] (reimbursement for unilateral placement may be awarded under the IDEA where the district's proposed placement does not provide a FAPE).) The private school placement need not meet the state standards that apply to public agencies in order to be appropriate. (34 C.F.R. § 300.148(c); *Florence County School Dist. Four v. Carter* (1993) 510 U.S. 7, 14 [114 S.Ct. 36, 1126 L.Ed.2d 284] (Despite lacking state-credentialed instructors and not holding IEP team meetings, unilateral placement was found to be reimbursable where the unilateral placement had substantially complied with the IDEA by conducting quarterly evaluations of the student, having a plan that permitted the student to progress from grade to grade and where expert testimony showed that the student had made substantial progress).)

Reimbursement may be reduced or denied if, at the most recent IEP team meeting the parents attended prior to removing the child, the parents did not inform the IEP team they were rejecting the proposed placement, and state their concerns and intent to enroll their child in a private school at public expense; or at least 10 business

days prior to the removal of the child, the parents did not give written notice to the public agency of this information. (Ed. Code, § 56176; 20 U.S.C. § 1412(a)(10)(C)(iii)(I); 34 C.F.R. § 300.148(e).)

Parent sought, for at least two months, to have Student placed at a residential treatment facility due to Student's spiraling behavior, risk taking, elopement and physical abuse of Parent. Parent requested a residential placement on at least three occasions in writing on March 24, 2022, March 28, 2022, and April 21, 2022. Parent gave Los Alamitos 10-day notices on the latter two occasions. Los Alamitos acknowledged the requests in writing and issued a corresponding prior written notice on each occasion.

Student established by a preponderance of the evidence that Sorenson was an appropriate placement Student. Testimony at hearing established that Student was able to access their education while residing at Sorenson and receiving therapeutic services that supported that access, stabilized Student and led to Student being able to progress to increasingly less restrictive environments over time.

Given Los Alamitos' failure to address Student's needs and provide an appropriate placement for Student during the two months from March 24, 2022, to May 23, 2022, the parental placement of Student at Sorenson Ranch, including the transportation of Student, beginning on May 20, 2022, was reasonable and must be reimbursed for the period from May 20, 2022, to May 23, 2022, the period of time Student was actually at Sorenson.

Given Los Alamitos acknowledgement at the May 23, 2022 IEP meeting that Student, in fact, needed placement at a residential treatment facility, Parent is also entitled to reimbursement for the period from May 23, 2022, through June 30, 2022. Los Alamitos' assertion that the district was entitled to delay the placement of Student for at least five weeks does not reflect the particular facts of this matter, in particular the exigency of placing Student in an expedited way.

Parent credibly testified that Student was enrolled in Sorenson Ranch from May 20, 2022, through June 30, 2022. Parent also testified credibly that the out-of-pocket costs for the transportation and placement were \$3,295 for transportation, \$7,450 for May tuition and \$13,950 for June tuition. Parent did not receive insurance or other reimbursement from any source.

Such equitable remedy for a private placement reflects the particular circumstances herein, and the unique balance of equities in this matter. Los Alamitos largely disregarded information provided to it by Parent and others regarding Student's escalating issues and presentation, and Student's then current present levels of performance and needs leading up to Parent's decision to parentally place Student at Sorenson. Student demonstrated increasing instability and need

- in bouncing from youth shelter to youth shelter,
- in their physical assaults on Parent,
- in their theft of money,
- in their conduct with peers at the shelters, and
- in eloping from Angel's Flight to Riverside County and plans to elope across state lines to Detroit.

For its part, Los Alamitos itself acknowledged Student's needs for a residential placement at the May 23, 2022 IEP meeting in its offer of such a placement. However, Los Alamitos' rationale for not promptly placing Student, especially after a two-month grace period to assess Student for just such a placement, are not sustainable. Director Delk admitted during testimony that a child in crisis, as Student was, required speedy action and that safety is a priority in such cases. Rather than question Parent's actions borne of concern for Student's safety and other needs, reimbursing Parent's prompt actions to place Student at Sorenson is the appropriate equitable remedy under the circumstances of this matter.

## ORDER

1. Parent shall submit proof of payment of the claimed expenses for Sorenson and transportation to Los Alamitos within 30 business days of this decision. Los Alamitos shall reimburse Parent for Parent's total out-of-pocket expenses up to \$24,695 within 45 days of the submission of proof of payment to Los Alamitos.

## RIGHT TO APPEAL THIS DECISION

This is a final administrative decision, and all parties are bound by it. Pursuant to Education Code section 56505, subdivision (k), any party may appeal this Decision to a court of competent jurisdiction within 90 days of receipt.

TED MANN

Administrative Law Judge

Office of Administrative Hearings