BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

# LONG BEACH UNIFIED SCHOOL DISTRICT,

v.

# PARENT ON BEHALF OF STUDENT.

# CASE NO. 2026020142

# EXPEDITED DECISION

March 16, 2026

On February 4, 2026, the Office of Administrative Hearings, called OAH, received a due process hearing request from Long Beach Unified School District, called Long Beach, naming Student. The complaint contained expedited hearing claims only. OAH set the expedited matter for hearing. The expedited claims proceeded to hearing with no continuances. (34 C.F.R. § 300.532(c)(2).)

Administrative Law Judge June R. Lehrman, heard this matter by videoconference on March 3 and 4, 2026. The Administrative Law Judge is called ALJ.

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Attorney Meagan Kinsey represented Long Beach. Special Education Local Plan Area Director Miruna Lascar attended the hearing on March 3, 2026, on Long Beach's behalf. Program Administrator Susan Caskey attended the hearing on March 4, 2026, on Long Beach's behalf. Mother represented Student and attended all hearing days on Student's behalf.

On March 4, 2026, the last day of hearing, the record was closed, and the matter was submitted for decision. The ALJ allowed the parties to file closing arguments by March 11, 2026, but did not continue the matter. Long Beach filed closing arguments.

## EXPEDITED ISSUES

1. Is maintaining Student's current educational placement substantially likely to result in injury to Student or to others?
2. Can Long Beach change Student's placement to an appropriate interim alternative educational setting of Rossier Park High School for not more than 45 school days?

## JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, referred to as 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 free appropriate public education 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).)

Title 20 United States Code section 1415(k) and title 34 Code of Federal Regulations, part 300.530, et seq. (2006), govern the discipline of special education students. (Ed. Code, § 48915.5.) A student receiving special education services may be suspended or expelled from school as provided by federal law. (20 U.S.C. §1412(a)(1)(A); Ed. Code, § 48915.5, subd. (a).) If a special education student violates a code of student conduct, school personnel may remove the student from their educational placement without providing services for a period not to exceed 10 days per school year, provided typical children are not provided services during disciplinary removal. (20 U.S.C. § 1415(k)(1)(B); 34 C.F.R. § 300.530(b)(1) & (d)(3).)

The law also provides that school personnel may remove a student to an interim alternative educational setting for not more than 45 school days, regardless of whether the student's behavior is determined to be a manifestation of the student's disability, under special circumstances. (20 U.S.C. § 1415(k)(1)(G); 34 C.F.R.§ 300.530(g) (2006).) The individualized education program, called IEP, team, determines the interim alternative educational setting. (20 U.S.C. § 1415(k)(2); 34 C.F.R.§ 300.531 (2006).)

A school district may request a due process hearing to authorize a change of placement if the district "believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others." (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) (2006).) An interim alternative educational setting placement

request requires an expedited hearing that must be conducted within 20 school days of the date an expedited due process hearing request is filed and a decision must be rendered within 10 school days after the hearing ends. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. 300.532(c)(2) (2006).)

After such a hearing, a hearing examiner may order a change of placement to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others. (20 U.S.C. § 1415(k)(3)(B)(ii)(II); 34 C.F.R. § 300.532 (b)(2)(ii).) The rules for a due process hearing under title 20 United States Code section 1415(k), must be consistent with those for other IDEA hearings. (34 C.F.R. § 300.532(c)(1)(a) (2006).)

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).) Here, Long Beach filed the complaint and has the burden of proof.

The factual statements in this Expedited 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 17 years old and in 11th grade at the time of the hearing. Student resided within Long Beach's geographic boundaries at all relevant times. Student was eligible for special education under emotional disturbance.

## ISSUE 1: IS MAINTAINING STUDENT'S CURRENT EDUCATIONAL PLACEMENT SUBSTANTIALLY LIKELY TO RESULT IN INJURY TO STUDENT OR TO OTHERS?

Long Beach contends that maintaining Student's current educational placement is substantially likely to result in injury to Student or to others. Mother did not make any contentions with respect to this issue.

A local educational agency may request a due process hearing to authorize a change of placement if the district "believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others…." (20 U.S.C. §1415(k)(3)(A); 34 C.F.R. § 300.532(a).) If it is determined following a hearing that a special education student's behavior in his or her current placement is substantially likely to result in injury to the student or to others, the student may be placed in an appropriate interim alternative educational setting for not more than 45 school days. (20 U.S.C. § 1415(k)(3)(B)(ii)(II); 34 C.F.R. § 300.532(b)(2)(ii).)

The United Stated Department of Education has declined to define the statutory term "substantially likely to result in injury to the child or others," saying that

> "[H]earing officers have the authority under § 300.532 to exercise their judgments after considering all factors and the body of evidence presented in an individual case when determining whether a child's

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> behavior is substantially likely to result in injury to the child or others.... [T]he meaning of 'substantially likely to result in injury to the child or others' is left to the judgment of the hearing officer..."

(Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed. Reg. 46,722 (August 14, 2006).)

When a public agency has requested that a hearing officer remove a child to an interim alternative educational setting, "the burden of persuasion is on the public agency." (Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed. Reg. 46,723 (August 14, 2006).)

Student enrolled in Long Beach and attended Jordan High School, relocating from his previous school district, Los Angeles Unified School District, in late September 2025. Long Beach was aware from his school records that Student had aggressive maladaptive behaviors. Long Beach behavior intervention supervisor Amanda Fay Smith assigned two male one-to-one aides to assist in managing Student's aggression. The aides were trained in nonviolent crisis intervention. The training involved various interventions, including seated and standing holds or restraints. Student was a tall, large, and strong 17 year-old boy. Therefore, Smith in an abundance of caution assigned two male aides to assist him. Behavioral incidents occurred almost immediately on September 25 and September 30, 2025, in which Student threatened and assaulted staff. Long Beach convened an IEP team meeting on October 2, 2025. The IEP reflected a primary eligibility category of autism and a secondary eligibility category of specific learning disability. The October 2, 2025 IEP contained academic goals in math, reading, and writing. Student was on track to graduate with a high school diploma. He could write complete sentences, verbally share a monologue of his writings, formulate a strong

opinion about people and situations, and participate in collaborative conversations with a peer about topics of interest. He presented with strong communication skills in sharing his thoughts.

However, despite his academic strengths, Student's behavior impeded his learning or the learning of others. The IEP contained a behavior intervention plan, and goals in behavior, coping skills and self-control. His goals addressed physical aggression such as hitting, choking, kicking, pushing and swearing.

The October 2, 2025 IEP offered Student placement at Jordan with one general education elective and all other classes in a special day class. It offered full time one-to-one aide services. The IEP contained a safety plan to address property damage, physical aggression and threats. Mother consented to the IEP, the behavior intervention plan and the safety plan. The October 2, 2025 IEP did not offer transportation, noting that Jordan was Student's home school.

On October 3, 2025, Student threatened and assaulted staff. Two behavioral incidents occurred on October 7, 2025. In the first incident, Student yelled at staff and attempted to elope, and as staff tried to prevent him from eloping he swung at them, wrestled and punched at them. Staff placed him in a seated hold and generated a Beheavior Emergency Report. The incident lasted approximately 35 minutes. In the second incident on October 7, 2025, Student threatened staff that he would kick and punch them in the groin, and he yelled profanity. He banged his forehead and the back of his head against a wall. He punched and slapped himself in the face. He kicked and spat at staff. He yelled that he was going to kill everyone, including himself. Staff placed him in a seated hold and generated a Behavior Emergency Report. The incident lasted approximately 40 minutes.

District convened an IEP team meeting on October 15, 2025. The IEP noted there had been 12 behavioral episodes over the course of four weeks, however not all of those were reflected in the documentary record or resulted in Behavior Emergency Reports. The IEP proposed a change in eligibility category from autism to emotional disability, and it proposed a change of placement to a nonpublic school. It continued to offer one-to-one aide services. The October 15, 2025 IEP did not reflect an offer of transportation, however Smith's testimony made clear this was a typographical error because Long Beach intended to offer transportation once Student enrolled in a selected nonpublic school. A "transportation unlock form" dated October 15, 2025, the same day as the IEP, made that clear. Mother consented to the IEP.

Further behaviors, resulting in staff using restraining holds and generating Behavior Emergency Reports, occurred on October 24, 2025, two on November 19, 2025, January 14, 2026, January 29, 2026, and three separate incidents on February 2, 2026. These incidents lasted from 20 minutes to over an hour. During these events, Student

- grabbed a stool and jabbed staff with it,
- disrobed,
- eloped,
- punched,
- bit,
- spat,
- stomped on staff members' feet,

- threw objects at staff and across the room,
- banged his own head against a wall, and
- punched himself in the face.

Long Beach filed this expedited due process matter on February 4, 2026.

Under these circumstances, which Mother did not dispute, there is no question that maintaining Student's current educational placement is substantially likely to result, and has in fact already resulted, in injury to Student or to others. Student hit, choked, kicked, bit, spat at, punched, pushed and threatened others. Student also hurt himself by banging his own head against a wall, and punching himself in the face. Despite two male one-to-one aides trained in nonviolent crisis intervention, behavior goals, a behavior intervention plan and a safety plan all being in place, Long Beach has been unsuccessful in managing Student's behaviors such as to keep Student or staff safe at Jordan.

Long Beach prevails on Issue 1.

## ISSUE 2: CAN LONG BEACH CHANGE STUDENT'S PLACEMENT TO AN APPROPRIATE INTERIM ALTERNATIVE EDUCATIONAL SETTING OF ROSSIER PARK HIGH SCHOOL FOR NOT MORE THAN 45 SCHOOL DAYS?

Long Beach contends that the nonpublic school Rossier Park High School, called Rossier, has agreed to enroll Student and is appropriate as a 45 day interim alternative educational setting. Mother contends that Rossier could not have actually accepted Student because they had never met him, were unaware of the extent of his needs, and because Mother had not had the opportunity to tour the school. Mother also contends

that Rossier was located at an inconvenient distance, and she disputes Long Beach's contention that it had offered transportation. Most importantly, Mother contends that Rossier does not meet Student's needs.

The IDEA does not require parental consent to placement in the interim alternative educational setting, or that a district must place a student in the interim alternative educational setting that parents prefer. (See *Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149.)

The interim alternative educational setting must enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP. (20 U.S.C. § 1415(k)(1)(D)(i); 34 C.F.R. § 300.530(d)(1).) The interim alternative educational setting must also enable the student to receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (34 C.F.R. §300.530(d)(1)(ii).) The hearing officer must "determine that the interim alternative educational setting meets the requirements of [the IDEA]." (OSEP Memorandum 97-7, 26 IDELR 981, 26 LRP 4589 (September 19, 1997)[answer to Question 8].)

An interim alternative educational setting need not replicate every aspect of the services that a child would receive if in his or her normal classroom.

> "[T]he Act modifies the concept of FAPE in these circumstances to encompass those services necessary to enable the child to continue to participate in the general curriculum, and to progress toward meeting the

goals set out in the child's IEP. " (Assistance to States for the Education of Children with Disabilities & Preschool Grants for Children with Disabilities 71 Fed. Reg. 46716 (Aug. 14, 2006).)

## ROSSIER ACCEPTED STUDENT ON THE BASIS OF HIS IEP

Long Beach offered Mother a tour of Rossier which Mother attempted to schedule with Rossier administrator Michelle Zacha. When Mother and Student went to Rossier to tour the school, Zacha was delayed for an extended time. Mother waited, but the tour never occurred and Mother eventually left. Mother therefore contends that Rossier could not have actually agreed to enroll Student, because she had never toured the school and because Rossier had never met Student. Mother also contends that Rossier was not actually familiar enough with Student's needs to agree to serve him.

Patti O'Connell, a Long Beach Special Education Administrator, was in charge of referring students to various nonpublic schools with whom Long Beach has contractual relationships, when called for by an IEP. Long Beach contracts with nine nonpublic schools, none of which are located within the city of Long Beach itself. O'Connell was tasked with locating an appropriate nonpublic school for Student after the October 15, 2025 IEP team had determined that a nonpublic school was appropriate.

O'Connell looked for a program with a general education curriculum, working toward a regular high school diploma, that could also support Students' behavioral needs. She located three possible options. The first was Epiphany Academy. The second was called Eko. Mother signed releases of information to send Student's

document to those schools. However, those two schools did not accept Student for enrollment. Nonpublic schools are free to accept or reject students who are referred to them. No information was presented as to why Epiphany or Eko rejected Student.

O'Connell then referred Student to Rossier. Rossier was in her opinion appropriate, and was her third choice solely because the other two were located closer to Long Beach, although also not within the city's borders. Rossier is located in Buena Park, an approximate 25 minute van ride from Long Beach. There were no closer options.

On the basis of the paperwork O'Connell sent to Rossier, Rossier agreed to accept Student. O'Connell was not certain what paperwork she had sent to Rossier, other than Student's IEP. Therefore, other than his IEP, it was not established exactly what information Rossier had about the severity of Student's needs when agreeing to accept him.

Because Mother had not had the opportunity to tour the school, she was understandably concerned about whether Rossier's acceptance of Student was firm. But, according to O'Connell, Rossier had indeed accepted Student for enrollment. They were in possession of his October 15, 2025 IEP which outlined the extent of his behaviors, contained his goals, and attached the behavior intervention plan and the safety plan. Their acceptance of Student indicated that on the basis of the information in his October 15, 2025 IEP, they considered themselves equipped to meet his needs.

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On January 21, 2026, Long Beach sent Mother a prior written notice confirming that Rossier had agreed to accept Student, pursuant to the October 15, 2025 IEP. Despite Mother's concerns, O'Connell's testimony established that Rossier had accepted Student for enrollment.

Mother was understandably concerned that once he was there, Rossier would turn out to be unable to serve him. According to O'Connell, if that were to occur, Long Beach would convene an IEP team meeting to discuss the situation and consider alternatives. The mere possibility of that occurring, although understandably concerning to Mother, did not contradict the fact that Rossier has accepted Student and, on the basis of his IEP, appeared ready to accept him for enrollment.

## LONG BEACH OFFERED TRANSPORTATION

Mother disputes whether Long Beach offered transportation to Rossier. However, her testimony made it clear that she was referring to the fact that Long Beach had not offered transportation while Student attended his home school Jordan. Once the October 15, 2025 IEP team determined that a nonpublic school was the appropriate placement, Long Beach offered transportation, confirmed by a "transportation unlock form" dated October 15, 2025. O'Connell confirmed that Rossier would provide van service from home to school and back, with aides on the van if necessary. The Rossier van aides were trained in nonviolent crisis intervention techniques, holds and restraints. Long Beach currently has 25 other students enrolled at Rossier. O'Connell has experienced no problems with respect to their transportation services.

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## ROSSIER IS AN APPROPRIATE 45 DAY INTERIM ALTERNATIVE EDUCATIONAL SETTING

O'Connell considered Rossier to be an appropriate choice because it offered a general education high school curriculum with credits toward a high school diploma, plus behavioral support, social emotional support and counselling. Rossier classes were small, comprising 12 students in a class with one teacher and one classroom aide, plus as many additional one-to-one aides as were called for by the students' IEP's, all trained in nonviolent crisis intervention techniques. Rossier could provide one-to-one aide support, or, in Student's case, two aides. A Board Certified Behavior Analyst supervised the aides. In addition to a general education curriculum toward a regular high school diploma, Rossier offered credit recovery if a student fell behind on their credits.

In addition to smaller classes, Rossier offered decompression spaces and supervised cool-down rooms, including a small space called a "mindfulness room." Counsellors were on site. The school utilized positive behavioral reinforcement systems, such as rewards for good behavior.

Mother disputed whether Rossier was an appropriate placement for Student, because in her opinion the other students there were lower functioning than he was. While waiting outside that school for the tour that was delayed, she observed the student population there. Mother felt the Rossier student body was much lower functioning than Student and, in her opinion, they appeared "drugged," and as if Rossier were a "rehabilitation facility." After waiting for the tour then leaving, Mother spoke by telephone to Zacha. Zacha admitted to Mother that Rossier was "a behavior school." Mother also contends Zacha admitted there were no facilities at Rossier to accommodate Student's need for physical activity.

Long Beach has nevertheless met its burden to establish by a preponderance of the evidence that Rossier was an appropriate interim alternative educational setting for not more than 45 school days. Rossier could meet Student's needs, safely transport him, implement his IEP goals and behavior intervention plan, and address his academic needs. It offered the appropriate general education curriculum towards a regular high school diploma. Student's overarching and most concerning needs were his maladaptive behaviors, which Rossier was prepared to address. As stated above, an interim alternative educational setting need not replicate every aspect of the services that a child would receive if in his or her normal classroom. Rossier could provide the services that were necessary to enable Student to participate in the general curriculum, and to progress toward meeting the goals set out in his IEP.

Long Beach prevails on Issue 2.

## 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:

Maintaining Student's current educational placement is substantially likely to result in injury to Student or to others.

Long Beach prevailed on Issue 1.

ISSUE 2:

Long Beach can change Student's placement to an appropriate interim alternative educational setting of Rossier Park High School for not more than 45 school days.

Long Beach prevailed on Issue 2.

## ORDER

1. Long Beach can change Student's placement to an appropriate interim alternative educational setting of Rossier Park High School for not more than 45 school days.

## 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.

June Lehrman
Administrative Law Judge
Office of Administrative Hearings