

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090121

ORDER GRANTING REQUEST FOR RECONSIDERATION
AND MODIFYING SEPTEMBER 13, 2021 ORDER GRANTING
MOTION FOR STAY PUT

SEPTEMBER 23, 2021

On September 13, 2021, the undersigned Administrative Law Judge issued an Order Granting Stay Put that stated, in pertinent part, that Student's stay put placement and services included transportation. On September 16, 2021, Los Angeles filed a Request for Clarification that is treated as a motion for reconsideration. On September 20, 2021, Student filed an opposition.

APPLICABLE LAW

The Office of Administrative Hearings will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time, generally within ten days. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

DISCUSSION

Student's Motion for Stay Put states at page 9 that Student's "educational placement as outlined in his June 3, 2021, [individualized education program] . . . is in [a special day class] classroom with related services, nursing and [] aid support, [and] transportation with a [health care aide]" Los Angeles' opposition to the Motion for Stay Put did not specifically mention transportation, but a declaration attached to the opposition stated that transportation was discussed at an August 16, 2021 meeting at which Los Angeles "offered to reimburse Student's parent for mileage or to provide private transport." On the basis of these filings, OAH ordered that Student's June 3, 2021, IEP had offered Student a placement in a special day class with various related services, accommodations and, as pertinent here transportation. The Order granted Student's motion and included transportation in the stay put.

In Los Angeles' September 16, 2021 Motion for Reconsideration, it points to the precise language in the IEP concerning transportation. Specifically, the IEP states "None" on boxes in two different locations in the IEP document indicating whether

transportation is being offered, except for extended school year when home to school transportation was being offered.

In the copy of the IEP that was provided in Student's Motion for Stay Put, a page of Notes from the June 3, 2021 IEP is included. In the Notes page, the IEP states: "[Student] continues to qualify for magnet transportation with [a health care aide] that rides the bus with him. [Student] has been offered transportation during [extended school year] via special education and transportation via magnet for the regular school year."

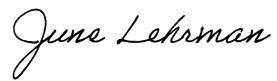
District's Motion for Reconsideration argues that "magnet transportation" is not a special education related service provided pursuant to the IEP, but is rather a general education service available to all students. Los Angeles therefore disputes that transportation should be considered part of Student's stay put placement, except for extended school year, as it was not provided pursuant to an IEP. This argument presents a new fact, justifying reconsideration.

Student's opposition to the motion for reconsideration contends essentially that Los Angeles is estopped from presenting this as a new fact, having not raised it earlier. Student's contention is not persuasive. Reconsideration is granted.

Upon reconsideration, the September 13, 2021 Order Granting Stay Put is hereby modified as it pertains to transportation. Specifically, Student's stay put concerning transportation will be exactly as the IEP was written. Specifically, transportation was not offered as an IEP service except for extended school year. However, as per the Notes, "[Student] continues to qualify for magnet transportation with [a health care aide] that rides the bus with him. [Student] has been offered transportation during [extended

school year] via special education and transportation via magnet for the regular school year."

IT IS SO ORDERED.

A handwritten signature in black ink that reads "June Lehrman". The script is cursive and fluid.

June Lehrman

Administrative Law Judge

Office of Administrative Hearings