BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ROSEVILLE CITY ELEMENTARY SCHOOL DISTRICT, ROSEVILLE JOINT UNION HIGH SCHOOL DISTRICT AND PLACER COUNTY OFFICE OF EDUCATION.	OAH CASE NO. 2013080295 ORDER DENYING MOTION FOR STAY PUT

On August 5, 2013, Parent on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing naming the Roseville City Elementary School District (RCSD), the Roseville Joint Union High School District (RJU), and the Placer County Office of Education (COE) as respondents.

On August 5, 2013, Student filed with OAH a motion for stay put. Student seeks an order requiring RJU, Student's current school district, to provide after-school transportation to My Friends Daycare in Orangevale, California.

On August 12, 2013, RCSD, RJU and COE each filed separate oppositions to the stay put motion.

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 (IEP), which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

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

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.)

DISCUSSION

Student claims that the last implemented Individualized Education Program (IEP) included transportation from Student's school to the My Friends Daycare which is located in a neighboring town. In support of her claim, Student has attached copies of Student's last four IEP's while she was a student at RCESD, emails, and a declaration of Inwahn Choi.

Respondents admit that Student had been transported to My Friends Daycare while attending RCSD as an accommodation.[2] In support of their position, respondents submit the declaration of Debbie Morris, the Director of Special Education for RCSD.

The IEP's of May 30, 2012; September 19, 2012; October 31, 2012; and January 28, 2013 all provide "home to school transportation" with the following notation: "[Student] will require a bus with temperature control/air conditioning due to her medical condition. Parent requesting after-school transportation to My Friends Daycare in Orangevale." In the meeting notes of the May 30, 2012 IEP, the following was noted:

> Transportation services will be offered. Parent is specifically asking for PM transportation to My Friends Daycare, located outside the boundaries of the district. The Program Specialist will review this request with the RCSD director, and will review the decision with the parent and the RCSD transportation office.

There does not appear any further discussion regarding transportation as indicated in meeting notes of the following three IEP meetings. Student also submitted an email dated June 7, 2012, where Jeff Chalfont of RCSD stated that Parent's transportation request for "PM transportation to My Friends Daycare in Orangevale" had been approved and sent on to the transportation coordinator.

Debbie Morris, the RCSD special education director, stated that RCSD offered home to school transportation which did not include transporting Student to a day care location after school. She also declared that the District granted Parent's request to transport her to My Friends Daycare "as a courtesy outside of the IEP process."

Student has failed to demonstrate that the IEP required RCSD to transport Student to her daycare after the school day. Student cites as evidence to support the motion a telephone conversation Parent had with Ms. Karen Armstrong of the COE. Parent contends that Ms. Armstrong stated that there was a mistake in the IEP which should have indicated that RCSD had agreed to transport Student to her daycare. Ms. Armstrong indicated that she would try

[2] Student is now a RJU student.

to rectify the situation with RJU. The statement is not under oath and is hearsay. The IEP's and the declaration of Ms. Morris indicate that the IEP did not require Student to be transported to day care in the afternoon. This is corroborated by the email from Mr. Chalfont and the IEP notes.

ORDER

Student's motion for stay put is DENIED without prejudice.

Dated: August 15, 2013

/s/
ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings