

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. MORGAN HILL UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011100526
MORGAN HILL UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011061147 ORDER DENYING STUDENT'S MOTION FOR SANCTIONS

On October 14, 2011, Student filed a motion for stay put, asking that Parents be reimbursed for transportation costs to and from a private school that was ordered by Office of Administrative Hearings Administrative Law Judge (ALJ) Adeniyi Ayoade, as Student's stay put placement for the pendency of these proceedings.¹ Student also asked that the District be ordered to pay his costs for filing the motion. The District filed opposition on October 19, 2011, and Student responded to that opposition on the same date.

APPLICABLE LAW

In certain circumstances, an ALJ presiding over a special education proceeding is authorized to shift expenses from one party to another, or to OAH. (Gov. Code, §§ 11405.80, 11455.30; Cal. Code. Regs., tit. 5, § 3088; see *Wyner v. Manhattan Beach Unified School Dist.* (9th Cir. 2000) 223 F.3d 1026, 1029 ["Clearly, [California Code of Regulations] § 3088 allows a hearing officer to control the proceedings, similar to a trial judge."].) Only the ALJ presiding at the hearing may place expenses at issue. (Cal. Code. Regs., tit. 5, § 3088, subd. (b).)

¹ Student's motion for stay put is addressed in a separate order.

DISCUSSION

Student attends a private school, Stanbridge Academy (Stanbridge). The District has reimbursed Parents for the costs of tuition at Stanbridge for several years, and it was declared to be his stay put placement on August 4, 2011, for the pendency of these proceedings.

In his motion for stay put seeking reimbursement for costs incurred by Parents for transporting Student to and from Stanbridge, Student asks that his attorney be reimbursed as sanctions because he has had to make that motion. However, Student's motion for sanctions fails because only the ALJ who is presiding over the matter may place expenses at issue. (Cal. Code Regs., tit. 5, § 3088, subd. (b).) This case has not been heard, and an ALJ has not yet been assigned for the purpose of hearing this matter. Accordingly, the motion is denied.

IT IS SO ORDERED.

Dated: October 31, 2011

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings