

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012110673

ORDER GRANTING STUDENT'S  
MOTION FOR STAY PUT

On November 27, 2012, Student filed a motion for stay put. No opposition has been received from the Los Angeles Unified School District (District).

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)<sup>1</sup>; 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.)

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 is a 3-year old boy with autism, currently enrolled in a District preschool mixed (PSM) program with children both with and without disabilities at Grant Elementary School (Grant), pursuant to his IEP dated July 10, 2012, and consented to by Student's mother (Parent) on October 9, 2012. Student's due process hearing request alleges that District failed to properly assess Student, and that the IEP of July 10, 2012 failed to offer Student a free appropriate public education (FAPE). Student moves for stay put because the

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<sup>1</sup> All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

July 10, 2012 IEP provides for home to school transportation, but District has failed to provide Student with transportation services.

The facts contained in Student's motion, that Parent consented to the IEP and that Student is enrolled in the District's PSM program, are not supported by a sworn declaration, and the IEP document (and Spanish translation) attached to the motion is not authenticated. However, the motion is unopposed by District and no objection to Student's evidence is raised. Multiple pages of the July 10, 2012 IEP appear to be missing or out of order, but the page entitled "IEP FAPE Part 1- Eligibility, Placement and Supports" clearly provides that home to school transportation to Grant is to be provided to Student "Effective With this IEP." Parent has consented to the July 10, 2012 IEP, and District has implemented that IEP by enrolling Student in the Grant PSM program; therefore the placement and services provided for in the July 10, 2012 IEP constitute Student's last agreed upon and implemented educational program for purposes of stay put. Accordingly, District is required to provide transportation for Student to the Grant PSM program and home again, in conjunction with all other provisions of the July 10, 2012 IEP.

#### ORDER

1. District shall provide Student with transportation from his home to Grant Elementary School in order for Student to attend the preschool mixed program, and home again after his attendance in that program, as provided in the July 10, 2012 IEP.

Dated: December 03, 2012

/s/

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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings