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 NUMBER 2019030607

ORDER FOLLOWING PREHEARING CONFERENCE; GRANTING MOTION IN LIMINE, IN PART; AND DENYING MOTION TO DISMISS

On October 7, 2019, Administrative Law Judge Tara Doss of the Office of Administrative Hearings held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The Office of Administrative Hearings will be referred to as OAH. The prehearing conference will be referred to as PHC.

Attorney Matthew Pero appeared on behalf of Student. Attorney Meagan Kinsey appeared on behalf of Los Angeles Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

DISMISSAL OF RESEDA CHARTER HIGH SCHOOL

During the PHC, Student dismissed Reseda Charter High School as a party to the case. Los Angeles did not object.

DUE PROCESS HEARING

The hearing will take place on October 15, through 17, 2019, and continue day to day at the discretion of the ALJ. The hearing will begin at 9:30 AM on the first day of the hearing and at 9:00 AM on all other days, unless otherwise ordered.

The parties anticipate five days are needed to complete the hearing. The parties will meet and confer regarding two additional hearing dates. The ALJ and the parties will discuss and schedule the additional two days on the first day of hearing.

HEARING LOCATION

The hearing will be held at OAH's offices, located at 15350 Sherman Way, Suite 300, Van Nuys, California 91406.

The parties must immediately notify all potential witnesses of the hearing dates, and must subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing good cause to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

ISSUES AND PROPOSED RESOLUTIONS

The issues at the due process hearing, and proposed resolutions, as alleged in the complaint and clarified by the parties and the ALJ during the PHC are:

ISSUES

1. Did Los Angeles deny Student a free appropriate public education, commonly referred to as FAPE, by failing to timely complete Student's individualized education program, commonly referred to as IEP, consistent with California Education Code section 56344, after Parent consented to assessment on November 8, 2017?
2. Did Los Angeles deny Student a FAPE in the February 8, 2019 IEP, as developed during IEP team meetings on January 30, 2018, and February 5, 8, and 28, 2018, by failing to offer appropriate goals and objectives, including:
    a. failing to offer any goals and objectives based on Student's present levels of performance;
    b. failing to offer goals that would allow Student to access the general education curriculum; and
    c. offering goals in social/emotional, prevocational education, behavioral functioning, and pragmatic language, solely to justify Los Angeles's placement offer in a special day class program?
3. Did Los Angeles deny Student a FAPE in the February 8, 2019 IEP, as developed during IEP team meetings on January 30, 2018, and February 5, 8, and 28, 2018, by failing to offer an appropriate placement in the least restrictive environment, including failing to offer:
    a. access to the general education core curriculum;

b. appropriate teaching methods; and

c. appropriate accommodations, including a quiet environment to meet Student's auditory processing needs?

4. Is Student entitled to reimbursement from Los Angeles for the cost of an independent psychological evaluation conducted by Dr. B.J. Freeman on November 28, 2018?
5. If Los Angeles denied Student a FAPE, is Student entitled to a remedy of reimbursement for the cost of private school placement at Westmark School from November 8, 2017, through the 2018-2019 school year, and for costs incurred up to the first day of hearing of the 2019-2020 school year?
6. If Los Angeles denied Student a FAPE, is Student entitled to a remedy of reimbursement for the future cost of private school placement at Westmark School, once those costs are incurred, for the 2019-2020 and 2020-2021 school years?

PROPOSED RESOLUTIONS

1. For a determination that the proposed placement of Student in the special day program at Reseda Charter High School is inappropriate;
2. For a determination that the goals and objectives in the February 8, 2019 IEP do not provide Student with a FAPE;
3. For a determination that Student's placement at Westmark School for 9th grade, through the present was/is appropriate;
4. For reimbursement of all educational expenses and related costs for Student to attend Westmark School as follows:

a. Cost for the 2017-2018 school year (9th grade) from November 8, 2017, through the end of the school year, in the amount of $23,700;

b. Cost for the 2018-2019 school year (10th grade) in the amount of $32,304;

c. Cost for the 2019-2020 school year (11th grade), incurred to date, in the amount of $15,273.89;

d. Cost for the remainder of the 2019-2020 school year (11th grade), including extended school year, as costs are incurred and proof of expenditure is presented to Los Angeles for reimbursement, and an agreement with Los Angeles that Student's stay put placement is at Westmark School; and

e. Cost for the 2020-2021 school year (12th grade), as costs are incurred and proof of expenditure is presented to Los Angeles for reimbursement, and an agreement with Los Angeles that Student's stay put placement is at Westmark School;

5. For the cost of an independent psychological evaluation conducted by Dr. B.J. Freeman on November 28, 2018, in the amount of $3,000;
6. For Petitioner's attorney's fees; and
7. For such other relief and further relief that the hearing officer deems appropriate.

OAH has not received a copy of Los Angeles's response to Student's complaint. Los Angeles must file its response with OAH no later than October 10, 2019, at 5:00 p.m. Student agrees that Los Angeles's response to Student's initial complaint is sufficient to also satisfy its obligation to respond to Student's amended complaint.

EXHIBITS

BINDERS

Exhibits must be pre-marked and placed in three-ring binders before the hearing. Exhibit binders must include a tab for each exhibit. Each binder must contain a detailed table of contents which clearly identifies the tabs and documents. The ALJ and witnesses must be able to easily turn to exhibit tabs and to turn pages in the binders. Multiple binders may be submitted if necessary.

TAB AND PAGE NUMBERS

The parties must place a letter followed by a number on each tab to identify each exhibit. Student must use the letter S before the number to identify Student's exhibits. Los Angeles must use the letter D before the number to identify Los Angeles's exhibits. For example, S-1 means Student's exhibit tab 1 and D-1 means Los Angeles's exhibit tab 1. Each page of each binder must be numbered consecutively from the first page of the first exhibit to the last page of the last exhibit in the binder. Parties may use a Bates-stamp type system for numbering.

CONTENT

Each exhibit must consist of one document. Separate documents may not be combined into one exhibit. Emails or letters may be consolidated into one exhibit if they are part of a single chain of messages. Documents offered as evidence to support a request for reimbursement must be separated by the service provider and should be in the order the services occurred where possible. Exhibits in the binders should be in chronological order, starting with the oldest date and concluding with the most recent date.

Parties should include resumes or curriculum vitae for each witness who is expected to testify as to their professional credentials. Notwithstanding the requirements of Education Code section 56505, subdivision (e)(7), the parties must exchange resumes at least 24 hours before the witness is scheduled to testify.

Los Angeles's binder should include a color copy of the school calendar for each school year in question and should have witnesses available to explain the calendar, if necessary. Student's binder should include a color copy of Westmark School's calendar for each school year in question and should have witnesses available to explain the calendar, if necessary.

COPIES OF BINDERS

The parties must provide copies of their evidence binders to each other no later than October 8, 2019. This exchange is required by Education Code section 56505, subdivision (e)(7). Each party must bring two additional sets of the binders containing their exhibits to the hearing. One set will be used by the ALJ, and the other set will be used by witnesses. The parties should not provide exhibits to OAH before the hearing.

Except for good cause shown, or unless used solely for rebuttal or impeachment, any exhibit not timely exchanged will not be admitted into evidence at the hearing unless the ALJ rules that it is admissible.

WITNESSES

Parties are responsible for producing their own witnesses unless otherwise ordered by the ALJ. Parties must make witnesses under their control reasonably available. The parties must schedule their witnesses to avoid delays in the hearing and to minimize or eliminate the need for calling witnesses out of order. Neither party will

be permitted to call any witnesses not timely disclosed except for good cause shown, and at the discretion of the ALJ.

The ALJ has discretion to limit the number of witnesses who testify and the time allowed for witness testimony. Education Code, section 56505.1, subdivision (h), empowers the ALJ to set a reasonable limit on the length of the hearing after consideration of four factors. The first two factors are the issues to be heard and the complexity of facts to be proven. The second two factors are the ability of the parties or their representatives to present their respective cases and the parties' estimates of the time needed to present their cases.

MEET AND CONFER

The parties are encouraged to review and shorten their witness and exhibit lists before the hearing. Evidence will be excluded if it is repetitive, cumulative, or insufficiently probative to justify the time it would take to hear. The parties are ordered to meet and confer no later than October 10, 2019, at 5:00 p.m. The parties must discuss the availability of witnesses, the order of witnesses and the length of witness testimony. The parties should attempt to eliminate duplicate exhibits from their binders. The parties may discuss whether they can produce a written stipulation stating basic facts to shorten the length of time needed for the hearing.

EVIDENCE PRESENTATION

In an administrative proceeding, the burden of proof is ordinarily on the party requesting the hearing. (*Schaffer v. Weast* (2005) 546 U.S. 49, 62.) In this case Student requested the hearing. Therefore, Student's case-in-chief will be presented first, followed by Los Angeles.

WITNESS LISTS

On the first day of hearing, before the first witness testifies, the parties must provide the ALJ with a joint hour-by-hour schedule of all witnesses expected to testify at the hearing. The list should include dates and time estimates of expected testimony. The list must also include an estimate of time for each party's direct and cross-examination. In the event an agreement cannot be reached, each party must prepare a separate written list, and Student must have witnesses available to testify.

Before the hearing begins, the ALJ and the parties will discuss the length of time anticipated for direct and cross-examination of each witness and scheduling issues for individual witnesses. The ALJ will finalize the witness schedule. Parties must be prepared at the end of each day to discuss the witnesses to be presented the next day and the estimated time each witness's testimony will take.

SCOPE OF WITNESS EXAMINATION

Each witness will be called to testify only once, except for rebuttal purposes. All parties must examine witnesses on all issues when the witness is first called. Requiring a witness to appear only once takes precedence over the order in which parties present their case-in-chief.

TELEPHONIC TESTIMONY

Whether a witness may appear by telephone is a matter within the discretion of the ALJ. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Any party seeking to present a witness by telephone must request permission to do so before the hearing, unless the opposing party has stipulated that the witness may appear by telephone. The party offering the witness must provide the witness with a complete set of exhibit binders

from all parties before the hearing. The binders must be exact paper copies of all of each party's exhibits. Electronic copies are not acceptable.

The party presenting the witness must ensure the witness testifies from a private location with no other persons present. The party offering telephonic testimony must ensure that the witness has telephone equipment that allows clear testimony at a volume that allows clear transmission of what the witness is saying, allows the witness' testimony to make a clear recording, and allows the witness to hear objections and rulings. No witness will be heard by telephone unless all these requirements have been fulfilled.

Student's request to have Dr. B.J. Freeman and Dr. Bea Braun testify on the telephone is tentatively granted, subject to OAH's conditions. Student indicated Dr. Freeman will be out of the country during testimony. The ALJ advised Student that OAH will not initiate a call to another country, and that Student will need to make arrangements to reach the witness on the telephone.

ELECTRONIC RECORDINGS

Audio Recording

A party may request permission to make an audio recording of the hearing. Permission to make an audio recording is subject to the ALJ's discretion and based upon certain conditions. Such requests are routinely granted on the following conditions:

- the OAH recording is the only official recording;
- the parties must turn the recording device on and off at the same time that the ALJ is on and off the record to avoid recording conversations while off the record;

- the recording device will be removed by the party recording during any recess where the party leaves the room;
- operation of the party's recording mechanism will not be allowed to delay the hearing;
- a parties' recording may not be used to prepare the testimony of a witness in the hearing;
- the recording must not be shared with any non-party, possible witness, or through social media;
- the parties must not use the recording in any subsequent due process hearing;
- the recording is subject to the same confidentiality as the due process hearing; and
- the parties must dispose of the unofficial recording when the time for filing an appeal has passed or, in the event of an appeal, when the time for submission of the record on appeal has passed.

Student and Los Angeles may audio record the hearing, subject to OAH's conditions.

Video Recording

No party, witness or anyone else may make any video recording of any part of the proceedings. Any person doing so will be subject to sanctions.

Recordings as exhibits

The ALJ has discretion to admit or exclude evidence in the form of a recording. Any request to submit a recording will be considered during the hearing. The ALJ may grant or deny the request, or grant the request subject to certain conditions. Audio

recordings from IEP team meetings must be transcribed and offered as documentary evidence. The part of the audio recording transcribed must be provided to the opposing party with the transcript, to allow an opportunity to verify the accuracy of the transcription. Transcription by a certified court reporter is not required. The relevant parts of the audio recording must be included with the transcript, at the ALJ's discretion, to allow the ALJ to listen to the recording along with the transcript. The ALJ may allow the opposing party to offer additional parts of the audio recording to establish the context, or to rebut, the recording.

COMPENSATORY EDUCATION OR REIMBURSEMENT

Any party seeking reimbursement for expenditures must present admissible evidence of these expenditures, or a stipulation to the amount of the expenditures. A party seeking compensatory education should provide evidence regarding the type, amount, duration, and need for any requested compensatory education.

MOTIONS

On October 2, 2019, Los Angeles filed a Motion in Limine to limit the evidence and arguments Student can make at the due process hearing in this case. Also on October 2, 2019, Los Angeles filed a Motion to Dismiss Student's proposed resolutions related to prospective private school placement. The parties and the ALJ discussed the motions during the PHC, and the ALJ issued the following rulings:

MOTION IN LIMINE

Los Angeles's Motion in Limine seeks an order excluding Student from introducing testimony, exhibits, and arguments related to:

- reimbursement for educational expenses, including private assessments and private school, prior to November 8, 2017;
- Student's status as a parentally-placed private school student and Parent's intent to maintain private school enrollment during the IEP process; and
- the determination that Los Angeles's IEP team only reached a tentative outcome with respect to Student's primary eligibility category, as of the January and February 2018 IEP team meetings.

Los Angeles argues evidence related to these issues should be excluded because OAH already determined the outcome of these issues in final Decisions issued on January 24, 2018, in OAH case number 2017070535, and June 22, 2018, in OAH case number 2018030412. Los Angeles further argues the doctrine of collateral estoppel should restrict Student from introducing evidence that contradicts the findings of OAH's two previous decisions involving Student and Los Angeles.

On October 7, 2019, Student filed an Opposition to Los Angeles's Motion in Limine. Student agrees the previously litigated issues regarding when Los Angeles was responsible for offering Student a FAPE, and whether Los Angeles predetermined Student's special education eligibility at the February 8, 2018 IEP team meeting, should not be re-litigated in the present case. However, Student disagrees with the exclusion of evidence related to Student being a parentally-placed private school student, or the February 2018 IEP team's discussions regarding Student's eligibility. Also, Student argues OAH's determination that Los Angeles was not responsible for offering Student a FAPE until November 8, 2017, does not bar Student from seeking reimbursement for independent evaluations that occurred before that date.

A party may move in limine to exclude evidence before it is offered at trial on any grounds sufficient to object to, or move to strike the evidence. (*Condon-Johnson &*

Assoc., Inc. v. Sacramento Municipal Utility Dist. (2007) 149 Cal.App.4th 1384, 1392.) Federal and state courts generally adhere to the related doctrine of collateral estoppel. (*Allen v. McCurry* (1980) 449 U.S. 90, 94 [101 S.Ct. 411, 66 L.Ed.2d 308]; *Levy v. Cohen* (1977) 19 Cal.3d 165, 171.) This doctrine also applies to determinations made in quasi-judicial administrative settings. (See *Pacific Lumber Co. v. State Resources Control Board* (2006) 37 Cal.4th 921, 944, citing *People v. Sims* (1982) 32 Cal.3d 468, 479). Collateral estoppel precludes re-litigation of facts or legal issues that have been argued and decided in prior proceedings. (*Lucido v. Superior Court* (1990) 51 Cal.3d 335.)

Collateral estoppel applies only if the following requirements are fulfilled:

- the party against whom preclusion is sought must be the same as, or in privity with, the party to the former proceeding;
- the issue sought to be precluded from re-litigation must be identical to that decided in a former proceeding;
- the issue must have been actually litigated in the former proceeding; and
- the decision on the issue was final and decided on the merits. (*See Lucido, supra, at p. 341.)*

The only issue decided in OAH's January 24, 2018 Decision involving the parties in this case, was whether Los Angeles failed to fulfill its child find duties and make an offer of FAPE to Student prior to the end of the 2016-2017 school year. As part of the proposed resolutions, Student requested reimbursement for private school tuition during the 2017-2018 school year, and for an independent psychological evaluation conducted by Dr. Marguery Lyvers in January and February, 2017. The ALJ determined Los Angeles fulfilled its child find duties from August 2016, through May 23, 2017. The ALJ also determined Los Angeles was not responsible for offering Student a FAPE during the 2016-2017 school year. Finally, the ALJ determined Student did not seek an offer of

FAPE from Los Angeles until October 31, 2017, at which time, Los Angeles timely provided Parent with an assessment plan, and Parent consented to assessment on November 8, 2017. Los Angeles was the prevailing party in the case. The ALJ denied all of Student's requests, including reimbursement for private school tuition and Dr. Lyvers's evaluation.

The only issue decided in OAH's June 22, 2018 Decision involving the parties in this case, was whether Los Angeles predetermined Student's eligibility under the category of autism leading up to a February 8, 2018 IEP team meeting. The ALJ determined Los Angeles did not predetermine Student's eligibility.

The doctrine of collateral estoppel applies, in part, to this case. The first requirement of collateral estoppel is satisfied because Student and Los Angeles were parties in OAH case number 2017070535, decided on January 24, 2018; and in OAH case number 2018030412, decided on June 22, 2018. The second requirement of collateral estoppel is satisfied with respect to Los Angeles's first request for exclusion, but not with respect to Los Angeles's second and third requests for exclusion.

Los Angeles's request to exclude evidence and arguments related to reimbursement for private assessments and private school tuition prior to November 8, 2017, is granted. The Decision in OAH case number 2017070535 determined Student did not seek an offer of FAPE from Los Angeles until October 31, 2017, at which time, Los Angeles timely provided Parent with an assessment plan, and Parent consented to assessment on November 8, 2017. In making this ruling, the ALJ denied Student's request for reimbursement for private school tuition and private evaluations, including Dr. Lyvers's evaluation. The issue of when Los Angeles was responsible for offering a FAPE to Student was litigated in OAH case number 2017070535. The Decision was final and binding on the parties, and has not been reversed by a higher court. Therefore,

collateral estoppel applies and Student may not offer evidence or arguments in the present case that contradicts the ruling that Los Angeles was not responsible for offering a FAPE to Student before November 8, 2017. Student is also precluded from requesting remedies for reimbursement of private school tuition or independent evaluations before November 8, 2017.

Los Angeles's request to exclude evidence and arguments that contradict Student's status as a parentally-placed private school student and Parent's intent to maintain private school enrollment during the IEP process, is denied. At issue in the present case is whether Los Angeles timely assessed Student after Parent consented to assessment on November 8, 2017. Also at issue, is whether Los Angeles denied Student a FAPE in a February 8, 2019 IEP, that was developed during five different meetings, including meetings held in January and February 2018. These issues were not litigated or decided in OAH case number 2017070535 or OAH case number 2018030412. Whether Student was a parentally-placed private school student after November 8, 2017, is relevant to the issues in the present case, and will be considered.

Los Angeles's request to exclude evidence and arguments that contradict the ALJ's determination in OAH case number 2018030412 that Los Angeles did not make a final offer with respect to Student's special education eligibility category as of the February 8, 2018 IEP team meeting, is denied. Los Angeles's request is not ripe. There are no issues or proposed resolutions in the present case related to Student's eligibility category. Should Student attempt to introduce evidence at hearing related to eligibility that was previously decided in OAH case number 2018030412, Los Angeles may make the appropriate objection at that time.

MOTION TO DISMISS

Los Angeles argues Student's proposed resolutions that seek prospective placement at Westmark School, a private school, as stated in the May 21, 2019 Order Following Prehearing Conference, should be dismissed. Los Angeles argues that California Education Code section 56505.2, subdivision (a), prohibits OAH from ordering prospective placement in a private school as a remedy.

On October 7, 2019, Student filed amended proposed resolutions and an opposition to Los Angeles's motion. Student does not request prospective placement at Westmark School. Instead, Student requests, among other things, reimbursement for tuition and expenses Parent has incurred to date, at Westmark School, for the 2017-2018, 2018-2019, and 2019-2020 school years. Student also requests reimbursement for tuition and expenses at Westmark School, once they are incurred, for the remainder of the 2019-2020 school year, and the 2020-2021 school year.

ALJ's have broad latitude to fashion appropriate equitable remedies for FAPE denials. *(School Comm. of Burlington v. Department of Educ.* (1985) 471 U.S. 359, 370 [105 S.Ct. 1996, 85 L.Ed.2d 385*]; Parents of Student W. v. Puyallup School Dist., No. 3* (9th Cir. 1994) 31 F.3d 1489, 1496.) In remedying a FAPE denial, the student is entitled to relief that is "appropriate" in light of the purposes of the IDEA. (20 U.S.C. § 1415(i)(2)(C)(iii); 34 C.F.R. § 300.516(c)(3). The purpose of the IDEA is to provide students with disabilities "a free appropriate public education which emphasizes special education and related services to meet their unique needs." *(Burlington, supra,* at p. 374.) Appropriate relief means "relief designed to ensure that the student is appropriately educated within the meaning of the IDEA." (*Puyallup, supra,* at p. 1497.)

Parents may receive reimbursement for their unilateral placement if the placement met the child's needs and provided the child with educational benefit, even if not all necessary educational benefits are provided. (*C.B. v. Garden Grove Unified School Dist.* (9th Cir. 2011) 635 F.3d 1155, 1159). Parental private school placement need not meet the state standards that apply to public agencies to be appropriate. (34 C.F.R. § 300.148(c).)

Los Angeles's Motion to Dismiss Student's proposed resolutions related to prospective placement at Westmark School, is denied. Student is no longer seeking prospective placement at Westmark School, so Los Angeles's motion is moot. Additionally, if the ALJ determines Los Angeles denied Student a FAPE, pursuant to the issues in this case, the ALJ has broad discretion to order an appropriate remedy, including reimbursement for private school placement. The ruling on this motion does not preclude Los Angeles from objecting to Student's proposed resolutions at hearing.

No other prehearing motions are pending or contemplated. Any motion not filed three business days before the PHC, must be supported by a declaration under penalty of perjury, establishing good cause why the motion was not timely filed.

STIPULATIONS

Stipulations to pertinent facts, contentions or resolutions are encouraged. Any proposed stipulation must be submitted to the ALJ in writing.

CONDUCT OF COUNSEL AND HEARING ROOM DECORUM

Counsel, all parties, and all witnesses must conduct themselves in a professional and courteous manner at all times. Cellular phones, recorders, and other noisemaking electronic devices must be shut off or set to vibrate during the hearing, unless the ALJ

grants permission otherwise. No text messaging will be allowed while the hearing is in session. No food or drinks other than water will be permitted in the hearing room during the hearing.

LANGUAGE INTERPRETERS AND REASONABLE ACCOMMODATIONS

A party or participant to this case, such as a witness, requiring reasonable accommodation to participate in a mediation or hearing may contact OAH at (916) 263-0880, or send an email to OAHADA@dgs.ca.gov as soon as the need is known. The e-mail should have "Request for Accommodation" in the subject line. Additional information concerning requests for reasonable accommodation is available on OAH's website at: https://www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Accommodations-at-OAH.

HEARING OPEN TO THE PUBLIC

At Student's request, the hearing will be open to the public. The parties, should inform the ALJ if Student expects any group or members of the press to be present during the hearing. No one, other than the parties, as specified in this Order, may record any part of the hearing. All electronic devices must be turned off or silenced in the hearing room, unless permitted by the ALJ. No text messaging will be allowed while the hearing is in session. The parties must immediately notify each other and OAH if they anticipate any members of the press or media will attend the hearing.

Student should be aware that by opening the hearing, school district employees who are not witnesses, or other people that Student does not know, may attend the hearing. Persons disclosed on either party's witness list, with the exception of the school district representative, will be excluded from the hearing until their testimony has been completed.

Government Code, section 11425.20 empowers the ALJ to order an open hearing be closed, or make other protective orders to the extent necessary, or proper to ensure a fair hearing in the circumstances of the particular case. The ALJ may also exclude persons whose actions impede the orderly conduct of the hearing, restrict attendance because of the physical limitations of the hearing facility, or take other action to promote due process, or the orderly conduct of the hearing. (Tit. 1, Cal. Code Regs., § 1030.)

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at https://www.applications.dgs.ca.gov/oah/oahsftweb.

If a full and final written settlement agreement is reached after 4:00 p.m. the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different

arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DocuSigned by:
Tara Doss
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DATED: October 8, 2019

Tara Doss
Administrative Law Judge
Office of Administrative Hearings