BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

STANISLAUS UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2021120819

ORDER DENYING MOTION TO STRIKE EXHIBITS AND GRANTING MOTION TO EXCLUDE EXPERT WITNESS

APRIL 1, 2022

On March 30, 2022, Stanislaus Union School District filed with the Office of Administrative Hearings, called OAH, a Motion to Strike Student's Exhibits and Expert Witness. On April 1, 2022, Parents on behalf of Student opposed the motion, with supporting declarations.

Stanislaus complains that Student failed to timely exchange exhibits. Stanislaus points to OAH's March 28, 2022 Prehearing Conference Order, that required each party to timely upload electronic hearing exhibits five business days before the first day of hearing, which constitutes each party's timely exchange of evidence on each other in compliance with Education Code section 56505,

subdivision (e)(7). The hearing for this matter is set to commence on April 5, 2022. Student uploaded his exhibits on the afternoon of March 29, 2022, and the morning of March 30, 2022, less than five business days prior to the hearing, in light of OAH's observance of Cesar Chavez day. Stanislaus also bases its motion on Student's failure to include cover sheets for its exhibits, as ordered by OAH.

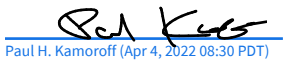
Student's opposition showed that he made good faith efforts to timely upload the exhibits, that most of the exhibits are school records, and that Stanislaus was not prejudiced by Student's late exchange of exhibits or failure to include cover pages. Consequently, Stanislaus's motion to strike exhibits is DENIED.

Stanislaus next complains that Student failed to disclose an expert witness in the area of executive functioning in his March 23, 2022 prehearing conference statement. Student first disclosed the unnamed expert in an amended prehearing conference statement on March 29, 2022, following the March 28, 2022 prehearing conference.

Parties shall serve their list of witnesses on each other in compliance with Education Code section 56505. No party shall be permitted to call any witnesses not timely disclosed except for good cause shown, supported by written declaration under penalty of perjury, and at the discretion of the Administrative Law Judge. Here, Student failed to timely notify Stanislaus of the expert witness and failed to disclose the name or contact information for the witness, thereby prejudicing Stanislaus's' ability to prepare for this witness. Moreover, Student failed to include a declaration showing good cause why the amended prehearing conference statement was not filed three business days prior to the prehearing conference, as ordered in the Prehearing Conference Order. For these reasons, Stanislaus's motion to strike

the expert witness for executive functioning, except for rebuttal purposes, is GRANTED.

IT IS SO ORDERED


Paul H. Kamoroff (Apr 4, 2022 08:30 PDT)

Paul H Kamoroff

Administrative Law Judge

Office of Administrative Hearings