BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: SAN DIEGO UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2015080848 (Primary Case)
PARENTS ON BEHALF OF STUDENT, v. SAN DIEGO UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015060967 ORDER GRANTING IN PART AND DENYING IN PART STUDENT'S MOTION TO SET PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

A prehearing conference was held in this matter on October 2, 2015. At that time, the Office of Administrative Hearings granted San Diego Unified School District's motion to amend its complaint, and, on its own motion, bifurcated the issue of if and when Student established residency within District's boundaries. OAH also continued the hearing on the remaining issues in the consolidated matter pending a decision on the issue of Student's residency. A hearing on the issue of Student's residency was convened on October 13 and 14, 2015. A decision on that hearing is pending.

On October 21, 2015, Student filed a motion to set the dates for the prehearing conference and due process hearing for the remaining issues in the consolidated matter. Student requested that OAH set a prehearing on November 9, 2015, and the due process hearing beginning on November 16, 2015. Student requested these dates because the parties and their attorneys were available, and in order to set dates as soon as possible to get a speedy resolution of the remaining issues.

On October 23, District filed an opposition to Student's motion. District requested that the prehearing conference be scheduled for November 16, 2015, and that the due process hearing be scheduled to begin on November 30, 2015. District requested those dates so that there would be enough time to determine if a hearing would be necessary depending upon the decision concerning Student's residency.

Student filed a reply to District's opposition on October 26, 2015. Student stated that his attorney has another hearing scheduled for the week of November 30, and therefore opposed the dates requested by District.

Since the parties cannot agree on dates, OAH has scheduled the matter as follows:

1. **DUE PROCESS HEARING:**

DATE: December 8, 9, and 10, 2015, and continuing day to day thereafter, Monday through Thursday, at the discretion of the ALJ. Unless the ALJ approves a different schedule, the hearing shall commence at 9:30 a.m. on the first day and 9:00 a.m. on all subsequent days.

LOCATION: Office of Administrative Hearings, 1350 Front Street, Suite 3005, San Diego, California, 92101

The parties shall immediately notify all potential witnesses of the hearing dates to ensure their availability to testify on the scheduled hearing dates. A witness is not "unavailable" for purposes of a continuance if not properly notified of the hearing dates.

2. **PREHEARING CONFERENCE:** A **mandatory** telephonic Prehearing Conference shall take place on:

DATE: November 30, 2015
TIME: 10:00 a.m.

An ALJ will conduct the PHC and OAH will initiate the call. The use of landline telephones is preferred. Due to reception and privacy concerns, appearance by cell phone requires the party appearing by cell phone to be in a private, stationary location.

3. **PREHEARING CONFERENCE STATEMENT:** Each party is required to submit a Prehearing Conference Statement which shall be filed at least three business days prior to the Prehearing Conference with the Office of Administrative Hearings, Special Education Division, 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833. The Prehearing Conference Statement may be filed and served by facsimile transmission at (916) 376-6319. The parties need not mail a hard copy of any document sent by facsimile

transmission. Unless otherwise directed by the ALJ, the parties shall not send by mail or facsimile transmission copies of documentary evidence intended for the due process hearing to OAH. The Prehearing Conference Statement shall include the following:

a. Each party's estimate of the time necessary to complete the Due Process Hearing;

b. A concise statement of the issues that remain to be decided at the Due Process Hearing and the proposed resolution of such issues, based upon those issues raised in the due process hearing request;

c. The name of each witness or expert the party may call at the Due Process Hearing, a brief summary of the subject of the expected testimony of the witness or expert, and a description of the issue to which the testimony of the witness relates;

d. The name and address of each expert witness the party intends to call at the Due Process Hearing, a brief summary of the opinion that the expert is expected to give, and a description of the issue to which the testimony of the expert relates;

e. A list of documentary evidence that the party intends to present, and a description of any physical or demonstrative evidence; and

f. The need for an interpreter or special accommodation at the due process hearing.

4. **PREHEARING MOTIONS:** All prehearing motions shall be served upon the opposing party and filed with the Office of Administrative Hearings, Special Education Division, **at least three business days before the Prehearing Conference**. Prehearing motions may be filed and served by facsimile transmission unless they exceed 35 pages in length in which case other means of delivery shall be used.

5. **CONTINUING COOPERATION:** The parties shall continue to confer and cooperate with each other to (1) facilitate the exchange of evidence, (2) reach stipulations of fact, law and the admissibility of evidence in order to promote the efficient conduct of the hearing, and (3) promote productive settlement discussions.

6. **SETTLEMENT:** The parties are encouraged to continue their attempts to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If a settlement is reached five business days or fewer before the due process hearing is scheduled to begin, the parties shall, in addition, immediately inform OAH of that fact by telephone at (916) 263-0880. 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. IF A FULL AND FINAL SETTLEMENT IS REACHED AFTER 5:00 P.M. ON THE LAST BUSINESS DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035, AND SHALL ALSO LEAVE CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. The ALJ will check for messages the evening prior to the hearing and the morning of the hearing.

7. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

Dated: October 28, 2015

/s/
DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings