BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020090441

ORDER DENYING MOTION TO REOPEN RECORD

APRIL 14, 2021

The Office of Administrative Hearings, called OAH, held a due process hearing in this matter on March 9, 10, 11, 17, and 18, 2021. OAH then continued the matter to April 5, 2021, for closing briefs. On April 7, 2021, Student filed a motion to reopen the record to admit an additional document. On April 12, 2021, Long Beach Unified School District filed an opposition to Student's motion.

Education Code, section 56505, subdivision (e), states that the parties to a due process hearing shall have certain rights, including, in pertinent part, the right to receive from other parties to the hearing, at least five business days before the hearing, a copy of all documents that the parties intend to present at the hearing, and the right to prohibit the introduction of any evidence at the hearing that has not been so disclosed. (Ed. Code, § 56505, subds. (e) (7) and (8).) Education Code, section 56505.1,

subdivision (f), states that the hearing officer during a hearing may bar introduction of any documents not so disclosed. (Ed. Code, § 56505.1, subd. (f).)

Here, Student seeks to introduce Student's sixth and seventh grade transcript into the record, after the hearing record has closed, and without any testimony regarding the document. Student did not disclose the document to Long Beach at least five business days prior to the hearing, nor did Student elicit testimony from any witness about the document. Student did not offer even a scintilla of legal authority supporting the motion to reopen the record. Moreover, Student did not offer any explanation for not requesting the transcript sooner so it could have been discussed during the due process hearing. Student's argument that he did not receive the transcript until after the hearing is not persuasive as Student did not request the record until after the hearing ended.

Student seeks to introduce the transcript to imply Student did not attend extended school year between sixth and seventh grades. Student acknowledges extended school year is not at issue, but rather argues this goes to witness credibility. Any scant probative value the transcript may have is significantly outweighed by the extreme prejudice to Long Beach to take the transcript at face value without any witness testimony to explain the transcript. Therefore, Student's motion is denied.

Linda Johnson

Linda Johnson
Administrative Law Judge
Office of Administrative Hearings