BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. HERMOSA BEACH CITY ELEMENTARY SCHOOL DISTRICT.	OAH CASE NO. 2011081019 ORDER GRANTING STIPULATION TO VACATE HEARING DATES AND SUBMIT MATTER ON COMPLETE RECORD OF TRANSCRIPTS AND ADMINISTRATIVE RECORD

On August 25, 2011, Parent on behalf of Student (Student), filed a Request for Due Process Hearing (complaint) in this matter, naming Hermosa Beach City Elementary School District (District). The hearing took place before Administrative Law Judge, Judith L. Pasewark (ALJ), of the Office of Administrative Hearings (OAH) on February 27, 28, 29, 2012, and March 1, 12, 13, 14, 15, 2012. At the request of the parties, written closing briefs were submitted and the record closed on April 19, 2012. With the exception of Student's Exhibit 95, which was withdrawn, the parties stipulated to move all other exhibits into the record. On May 16, 2012, the ALJ rendered the decision on this matter.

On August 10, 2012, Student filed an appeal of the decision in the United States District Court, in the Central District of California, entitled C.V. et. al. v. Hermosa Beach City School District, Case No. CV-12-6805-GAF. The matter was heard before federal court Judge Gary Feess through cross motions for summary judgment. On August 12, 2013, Judge Feess issued his order granting the District's motion in regard to the 2010-2011 and 2011-2012 school years, finding that the District offered Student a free appropriate public education (FAPE) for those years, and that Student was not entitled to reimbursement. The court remanded to OAH the determination of whether a FAPE was provided for the 2009-2010 school year in light of the Court's finding that the ALJ never evaluated the offer of a FAPE as of December 11, 2009. The Court found the issue must be remanded to the ALJ for determination of whether Student was offered a FAPE in the December 11, 2009 Individualized Education Plan (IEP).

On November 12, 2013, ALJ Pasewark held a telephonic status conference with the parties to discuss the remand. During the status conference it was decided that a due process hearing on the remand of this matter would take place before ALJ Pasewark on February 11, and 12, 2014, in order to hear supplemental testimony. It was also decided that a Prehearing Conference would take place on February 3, 2014.

After reviewing the testimony and administrative record from the original hearing on the matter, the parties have determined that the issue of whether the December 11, 2009 IEP

offered Student a FAPE had been addressed during the first hearing, making a full supplemental hearing on the matter unnecessary.

Therefore, pursuant to the stipulation of the parties, OAH makes the following order:

1. The date set for Prehearing Conference on February 3, 2014, is vacated;

2. The dates set for due process hearing on February 11, and 12, 2014, are vacated;

3. The hearing on the remanded issue shall be decided based on the transcript and administrative records from the original hearing of this matter which were submitted to the federal court in CV-12-6805-GAF, and the final decision issued by federal court Judge Feess in that case;

4. The District shall submit a complete copy of the bate-stamped transcripts and administrative records to OAH no later than February 15, 2014, and shall include the entire transcript and administrative records submitted to the federal court in CV-12-6805-GAF, which Student's counsel already has a copy, and does not need another copy. The parties shall cite to the transcripts and administrative record in their closing briefs and shall not seek to introduce any other evidence, including declarations of witnesses; and

5. The parties shall submit written closing briefs to OAH by March 4, 2014, on the one issue to be determined: Whether the December 11, 2009 IEP offered Student a FAPE.

IT IS SO ORDERED.

Dated: January 31, 2014

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings