BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

FRESNO UNIFIED SCHOOL DISTRICT AND

CLOVIS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024010630

ORDER DENYING MOTION IN LIMINE WITHOUT PREJUDICE

MARCH 4, 2024

On January 19, 2024, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Fresno Unified School District and Clovis Unified School District as respondents. On February 27, 2024, OAH granted the parties' joint request to continue the due process hearing to April 30, through May 2, 2024.

On February 23, 2024, Student filed a Motion in Limine requesting OAH to exclude any and all documents, files, reports, videos, recordings, writings, and data

that Clovis Unified School District failed to properly disclose in response to the records request from Student's counsel. Student also requested for OAH to Order that testimonial evidence in reliance on such undisclosed items be deemed inadmissible at hearing. Lastly, Student requested for OAH to Order a presumption at hearing, that the evidence Clovis failed to disclose would not be in Clovis's favor or defense. On February 26, 2024, Student filed Clarification Regarding Motion in Limine and modified his request for exclusion based on Clovis providing documents and other evidence after Student filed the motion. On February 28, 2024, Clovis filed an opposition. On March 1, 2024, Student filed a response to Clovis's opposition.

APPLICABLE LAW

OAH requires a party to file a prehearing conference statement at least three business days prior to the prehearing conference, called PHC. Each party has a duty to disclose their witnesses and documentary exhibits in the mandatory PHC statement. Education code section 56505, subdivision (e)(7), requires the parties to a due process hearing to provide documents and disclose witnesses to the other party at least five business days before the commencement of hearing. The administrative law judge hearing the case has the discretion to exclude from evidence any documents, or witness testimony not so disclosed. (Ed. Code, § 56505.1, subd. f.)

DISCUSSION

Student's motion in limine requested to exclude all documentary evidence and witness testimony referencing the documentary evidence that was not disclosed in response to Student's records request on December 14, 2023. Student cites authority from the Federal Rules of Civil Procedure, case law, and a section of the California Code of Regulations that governs workers' compensation appeals to support his position. In

his motion, Student acknowledged that special education law does not provide for pretrial discovery. Student's notice of clarification of the motion in limine listed additional evidence he received pursuant to the records request.

Clovis objected to Student's requests for relief in the motion in limine and clarification regarding the motion in limine. Clovis contended that at all times it acted in good faith in providing the requested records. Clovis claimed that it has made ongoing efforts to provide all records that it is required to provide Student. Clovis also objected to Student's request and argued it was impermissibly vague and overbroad. Finally, Clovis argued Student's motion should be denied because it is based wholly on conjecture.

Student's motion in limine is denied without prejudice because it is premature. The due process hearing is scheduled to begin on April 30, 2024, in approximately two months. Determination of what evidence will be admitted during the due process hearing is to be determined at the prehearing conference and at the time of hearing. Student may reiterate the requests made herein at the prehearing conference or due process hearing. Accordingly, Student's requests made in the motion in limine and clarification regarding the motion in limine are denied without prejudice.

ORDER

Student's motion in limine and clarification regarding the motion in limine are denied without prejudice.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings