BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. COUNTY OF SAN DIEGO OFFICE OF EDUCATION.	OAH CASE NO. 2012110566 ORDER GRANTING REQUEST FOR OFFICIAL NOTICE OF EXHIBIT 38

On March 8, 2013, San Diego County Office of Education (COE) filed a request for the undersigned Administrative Law Judge (ALJ) to take official notice of Exhibit 38, Protocol for Competence Evaluations. On March 12, 2013, Parent on behalf of Student (Student) filed an opposition to the request.

Exhibit 38 is entitled "Protocol for Competence Evaluations" which purports to be a procedural protocol utilized by the San Diego County Juvenile Court in matters regarding the evaluation of competency of a minor. During the due process hearing, COE was unable to authenticate Exhibit 38 as being the protocol in place during the time at issue. In lieu of requiring further testimony, the ALJ permitted COE to file this request in writing.

APPLICABLE LAW

Government Code section 11515 provides that "official notice can be taken, either before or after submission of the case for decision …of any fact which may be judicially noticed by the courts of the state." Courts have traditionally taken judicial notice of public records public records issued by public agencies. (*Board of Education of City of Los Angeles v. Watson* (1966) 63 Cal. 2d 829, 836, fn.3; *McPheeters v. Board of Medical Examiners of State* (1946) 74 Cal. App. 2d 46, 48.)

Here, COE is requesting that official notice be taken of the published procedure for competency evaluations which the Juvenile Court makes available to the public. The undersigned ALJ was able to access the document from the California Court website, which is the official website of the California court system.[1] Thus, the document was capable of being authenticated as a public record.

[1] The declarations of Amy Koers and Angie Arellano, although hearsay, also substantiate that Exhibit 38 is the current version of the court's protocol.

ORDER

The COE's request for the ALJ to take official notice of the "Protocol for Competence Evaluations" is hereby GRANTED. Accordingly, Exhibit 38 is hereby admitted into evidence.

IT IS SO ORDERED.

Dated: March 13, 2013

/s/
ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings