BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PASADENA UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2014051114 ORDER FOLLOWING PREHEARING CONFERENCE

On September 8, 2014, a telephonic prehearing conference was held before Administrative Law Judge Elsa H. Jones, Office of Administrative Hearings. Pamela K. Daves, Attorney at Law, appeared on behalf of Parents and Student (collectively, Student). Karen E. Gilyard, Attorney at Law, appeared on behalf of Pasadena Unified School District (District). The PHC was recorded.

Based on discussion with the parties, the ALJ issues the following Order:

1. Hearing Dates, Times, and Location. The hearing shall take place on September 15-18, 2014, and continue day to day thereafter, Monday through Thursday as needed, at the discretion of the ALJ. Unless otherwise ordered, the hearing shall begin at 1:30 p.m. on September 15, and at 9:00 a.m. on all other days.

Pursuant to District's request to change the hearing location, which was filed in this matter on September 9, 2014, the hearing shall take place at the District's offices located at the **Burbank Complex, 2046 N. Allen Avenue, Altadena, California 91001**, unless otherwise ordered. **Please note the change in the hearing location.**

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness was not properly notified of the hearing date or properly subpoenaed, as applicable.

2. Issues and Proposed Resolutions. The issues at the due process hearing are listed below.

I. Did District deny Student a free appropriate public education by reason of the following:

A. Failing to assess Student in a timely manner in response to Parent's requests for assessment of April 15, 2013, and October 13, 2013;

B.

B. Failing to provide Parent with a copy of the procedural safeguards upon her April 15, 2013, request for assessment; and

C. Failing to timely and completely respond to Parent's written requests for Student's educational records dated April 15, 2013 and October 13, 2013?

II. Did District fail to offer Student a FAPE in the December 2013/January 2014 individualized education program, by reason of the following:

A. Failing to offer a one-to-one aide;

B. Failing to offer services to address Student's social skills deficits;

C. Failing to offer sufficient counseling and other mental health services; and

D. Failing to offer sufficient academic instruction services.

3. Exhibits. Exhibits shall be pre-marked and placed in three-ring exhibit binders prior to the hearing. The parties shall use numbers to identify exhibits, but shall place the letter "S" or "D" in front of the exhibit to designate whether it is a Student or District exhibit (for example, "S-5, S-6," or D-1, D-2"). Each exhibit shall be internally paginated by exhibit, or all of a party's exhibits shall be consecutively numbered, by Bates-stamp or other similar method, starting with the first page of the first exhibit and concluding with the last page of the last exhibit. Each exhibit binder shall contain a detailed table of contents. The parties shall serve their evidence binders on each other in compliance with Education Code section 56505, subdivision (e)(7). At the hearing, each party shall supply an exhibit binder containing its exhibits for use by the ALJ, and a second exhibit binder for use by witnesses. The parties may not serve exhibits on OAH prior to the hearing. In the event of duplicate exhibits, the most legible version will be used.

Unless used solely for rebuttal or impeachment, any exhibit not included in that party's final exhibit list and not previously exchanged shall not be admitted into evidence at the hearing at the request of that party, except for good cause shown, and at the discretion of the ALJ, and unless the ALJ rules that it is otherwise admissible.

4. Witnesses. The parties shall serve their final exhibit lists on each other in compliance with Education Code section 56505, subdivision (e)(7). Each party is responsible for procuring the attendance at hearing of its own witnesses. Each party shall make witnesses under its control reasonably available to the other party without subpoena, upon timely request. The parties shall schedule their witnesses to ensure that there is a witness available to testify at all times during the hearing, and to ensure that the hearing is

completed as scheduled. Neither party shall be permitted to call any witnesses not disclosed in the party's final witness list except for good cause shown, and at the discretion of the ALJ. The ALJ has discretion to limit the number of witnesses who testify and the time allowed for their testimony. The parties are encouraged to review and curtail their witness lists prior to the hearing. Witness testimony will be excluded if it is repetitive, cumulative, or insufficiently probative to justify the time it would take to hear.

The parties shall attempt to reach agreement on a witness list for the first day of hearing. The District shall have witnesses available in case agreement on a witness list is not reached. The parties shall be prepared during each day of hearing to discuss the witnesses to be presented that day and the next day, and the time the testimony of each such witness is expected to take.

Except for purposes of rebuttal or impeachment, the parties should expect that each witness shall be called to testify only once.

5. Scope of Witness Examination. After the first direct and cross-examinations, each party shall be limited in examining the witness to only those matters raised in the immediately preceding examination, at the discretion of the ALJ.

6. Telephonic Testimony. Student's motion to allow witness Maria Scott to testify telephonically is granted. Student shall provide the witness with a complete set of exhibit binders from all parties, containing all of each party's exhibits, prior to the time that the witness is to testify, and shall ensure that the hearing room has sound equipment that allows everyone in the room to hear the witness, and the witness to hear objections and rulings. Unless otherwise ordered, the witness shall testify on a land-line telephone while alone in a private room. The witness will not be heard by telephone unless all these requirements have been fulfilled.

7. Motions. Student's counsel advised that she may file a motion to amend the complaint. No other pretrial motions are pending or contemplated. Any other motion filed after September 8, 2014, besides the aforementioned potential motion to amend, shall be supported by a declaration under penalty of perjury establishing good cause as to why the motion was not made prior to or during the PHC of September 8, 2014.

8. Stipulations. Stipulations to pertinent facts, contentions or resolutions are encouraged. Any proposed stipulation shall be submitted to the assigned ALJ in writing.

9. Conduct of Counsel and Hearing Room Decorum. Counsel, all parties, and all witnesses shall conduct themselves in a professional and courteous manner at all times. Cellular phones, pagers, recorders, and other noisemaking electronic devices shall be shut off or placed on the vibrate setting during the hearing unless permission to the contrary is obtained from the ALJ. There shall be no texting or tweeting during the hearing unless permission to the contrary is obtained from the ALJ.

10. Compensatory Education/Reimbursement. Any party seeking reimbursement of expenditures shall present admissible evidence of these expenditures, or a stipulation to the amount of expenditures, as part of its case in chief. A party seeking compensatory education should provide evidence regarding the type, amount, duration, and need for any requested compensatory education.

11. Special Needs and Accommodations. At present, neither party anticipates the need for special accommodation for any witness or party, or for interpreter services.

12. Hearing Closed To the Public. The hearing will be closed to the public.

13. Settlement. The parties are encouraged to continue working together 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. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035. THE PARTIES SHOULD ALSO LEAVE RELEVANT CONTACT INFORMATION SUCH AS CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. THE PARTIES SHOULD SIMULTANEOUSLY FAX THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO OAH AT THE FAXINATION LINE at 916-376-6319.

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. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

14. Failure to comply with this Order or with Education Code section 56505, subdivision (e)(7) may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: September 10, 2014

/s/

ELSA H. JONES

Administrative Law Judge
Office of Administrative Hearings