BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024030862

ORDER CLARIFYING ISSUES AND PROPOSED RESOLUTIONS FOR HEARING

OCTOBER 1, 2024

On March 22, 2024, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Newport-Mesa Unified School District, called Newport-Mesa. The Office of Administrative Hearings is referred to as OAH.

On September 23, 2024, OAH convened a prehearing conference, called a PHC. During that PHC, the undersigned administrative law judge, called an ALJ, clarified the issues for hearing. The clarified issues were reflected in the September 23, 2024, Order Following Prehearing Conference for Hearing by Videoconference.

On September 30, 2024, Student filed a motion, asserting that the clarified issues in the September 23, 2024, Order did not fully reflect the issues and proposed resolutions in Student's first amended complaint. OAH did not receive a response from Newport-Mesa.

At the beginning of the first day of hearing, the undersigned ALJ heard argument from the parties regarding Student's motion. Following a discussion with the parties, the undersigned ALJ confirmed the following issues would be heard and decided in this matter:

1) Did Newport-Mesa Unified School District deny Student a FAPE from March 22, 2022, through the end of the 2021-2022 school year, including ESY, by:
    a) failing to ensure that an administrator was present at the March 24, 2022, IEP team meeting;
    b) failing to ensure that a school psychologist, occupational therapist, adapted physical education teacher, and administrator were present at the March 28, 2022, IEP team meeting;
    c) failing to ensure that a school psychologist was present at the May 5, 2022, IEP team meeting;
    d) failing to offer goals in the following areas of need:
        i) executive functioning;
        ii) sensory processing;
        iii) fine motor skills; and
        iv) visual motor skills;
    e) failing to offer appropriately ambitious goals that addressed all of Student's needs in the following areas:
        i) reading comprehension;

ii) mathematics;

iii) social skills;

iv) behavior;

v) self-regulation; and

vi) communication;

f) failing to offer a one-to-one aide during the regular school year;

g) failing to offer occupational therapy services during the regular school year;

h) failing to offer sufficient speech and language services during the regular school year;

i) failing to offer sufficient individual specialized academic instruction during the regular school year;

j) failing to offer the following services during ESY:

i) specialized academic instruction;

ii) speech and language; and

iii) occupational therapy; and

k) failing to offer a sufficiently supportive placement?

2) Did Newport-Mesa Unified School District deny Student a FAPE during the 2022-2023 school year, including ESY, by:

a) failing to ensure that a school psychologist, occupational therapist, and adapted physical education teacher, were present at the March 14, 2023, IEP team meeting;

b) failing to offer goals in the following areas of need:

i) communication.

ii) sensory processing;

iii) self-regulation;

iv) fine motor skills; and

v) visual motor skills;

c) failing to offer appropriately ambitious goals that addressed all of Student's needs in the following areas:

i) reading comprehension;

ii) mathematics;

iii) social skills;

iv) behavior; and

v) executive functioning;

d) failing to offer a one-to-one aide during the regular school year;

e) failing to offer occupational therapy services during the regular school year;

f) failing to offer sufficient speech and language services during the regular school year;

g) failing to offer sufficient individual specialized academic instruction during the regular school year;

h) failing to offer the following services during ESY:

i) specialized academic instruction;

ii) speech and language; and

iii) occupational therapy; and

i) failing to offer a sufficiently supportive placement?

3) Did Newport-Mesa Unified School District deny Student a FAPE during the 2023-2024 school year, including ESY, by:

a) failing to ensure that a school psychologist, occupational therapist, and administrator were present at the May 30, 2024, IEP team meeting;

b) failing to offer goals in the following areas of need:

i) reading comprehension;

ii) sensory processing;

iii) fine motor skills; and

iv) visual motor skills;

c) failing to offer appropriately ambitious goals that addressed all of Student's needs in the following areas:

i) mathematics;

ii) social skills;

iii) executive functioning;

iv) behavior;

v) communication; and

vi) self-regulation;

d) failing to offer a one-to-one aide during the regular school year;

e) failing to offer sufficient occupational therapy services during the regular school year;

f) failing to offer sufficient speech and language services during the regular school year;

g) failing to offer sufficient individual specialized academic instruction during the regular school year;

h) failing to offer occupational therapy services during ESY; and

i) failing to offer a sufficiently supportive placement?

4) Did Newport-Mesa Unified School District deny Student a FAPE from the beginning of the 2024-2025 school year, through August 16, 2024, by:

a) failing to offer, in the May 30, 2024, IEP, goals in the following areas of need:

i) reading comprehension;

ii) sensory processing;

iii) fine motor skills; and

iv) visual motor skills;

b) failing to offer, in the May 30, 2024, IEP, appropriately ambitious goals that addressed all of Student's needs in the following areas:
    i) mathematics;
    ii) social skills;
    iii) executive functioning;
    iv) behavior;
    v) communication; and
    vi) self-regulation;
c) failing to offer, in the May 30, 2024, IEP, a one-to-one aide during the regular school year;
d) failing to offer, in the May 30, 2024 IEP, sufficient occupational therapy services during the regular school year;
e) failing to offer, in the May 30, 2024, IEP, sufficient speech and language services during the regular school year;
f) failing to offer, in the May 30, 2024, IEP, sufficient individual specialized academic instruction during the regular school year;
g) failing to offer, in the May 30, 2024, IEP, occupational therapy services during ESY; and
h) failing to offer, in the May 30, 2024, IEP, a sufficiently supportive placement?

The parties agreed with the undersigned's clarification of the issues as described above.

The undersigned also confirmed that Student's proposed resolutions included placement at a non-public school such as New Vista.

IT IS SO ORDERED.

Ashok Pathi

Ashok Pathi

Administrative Law Judge

Office of Administrative Hearings