BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENTS ON BEHALF OF STUDENT,	OAH CASE NO. 2013030379
v.	ORDER FOLLOWING PRE-HEARING CONFERENCE OF MAY 6, 2013
JURUPA UNIFIED SCHOOL DISTRICT.	

Administrative Law Judge (ALJ) Darrell Lepkowsky, Office of Administrative Hearings (OAH) held a telephonic prehearing conference in this case on May 6, 2013. Student's mother represented Student. Jonathan Read, Attorney at Law, represented the Jurupa Unified School District (District). Interpreter Miguel Rojas provided translation for Student's mother during the PHC. The PHC was recorded.

Based on discussion of the parties, the ALJ issues the following order:

1. Hearing Dates, Times, and Location. The hearing shall take place starting on Wednesday, May 8, 2013, at the District's offices located at 4850 Pedley Road, Riverside, CA 92509. The hearing will start at 9:30 a.m. An additional day of hearing will be held on Wednesday, May 15, 2013, if necessary, also starting at 9:30 a.m.

The District shall ensure that the hearing room is configured into a courtroom setting and shall have at a minimum 1) a table for Parent and Student's legal representatives; 2) a table for the District's legal representative and the District's representative; 3) a table for the witness; and 4) a table for the ALJ, near an electrical outlet. The District shall provide drinking water to all parties, witnesses and the ALJ. The water does not have to be bottled. The same hearing room shall be used for each day of hearing and shall be available at least one hour prior to the commencement of the hearing each day. The hearing room shall be locked following the hearing each night.

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.

2. Issues and Proposed Resolutions. Based upon Student's complaint, and as clarified in Student's prehearing conference statement and through discussions with the parties at the PHC, the issues for the due process hearing are the following:

a) Did the District deny Student a free appropriate public education under the Individuals with Disabilities Education Act because the District continues to maintain Student's placement in a classroom where his teacher has yelled at him and hit him?

b) Did the District deny Student a free appropriate public education under the Individuals with Disabilities Education Act because the District stopped providing Student with bus transportation from home to school soon after holding an individualized education program meeting for Student on or about January 24, 2013?

c) As a remedy, Student requests that the ALJ order the District to transfer Student to a new elementary school and provide transportation for him from home to the school.

3. Exhibits. The parties shall use numbers to identify exhibits, but shall place the letter "S" or "D" in front of the exhibit to designate if it is a Student or District exhibit (for example, "S-5, S-6," or "D-1, D-2. Each exhibit shall have page numbers. The District has already sent its exhibits to Student's mother. Student's mother shall make sure that the District has copies of her proposed exhibits prior to the start of the hearing. 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 should not send exhibits to OAH or the ALJ prior to the hearing.

Except for good cause shown, or unless used solely for rebuttal or impeachment, any exhibit not included in the exhibit lists and not previously exchanged shall not be admitted into evidence at the hearing unless the ALJ rules that it is admissible.

4. Witnesses. Each party is responsible for procuring the attendance at hearing of its own witnesses. The parties shall schedule their witnesses to avoid delays in the hearing and to minimize or eliminate the need for calling witnesses out of order. Neither party shall be permitted to call any witnesses not disclosed at the prehearing conference unless the witness if for purposes of rebuttal.

a. Student may call the following witnesses:

Student's mother
Student's father
Student
Nora (last name unknown)
Blanca Lopez

b. The District may call the following witnesses:

Lori Smith
Michelle Johnson
Michelle Murray

Sonia Porter
Leanne Coon
Arlene Stevens

The ALJ will finalize the witness schedule at the start of the due process hearing on May 8, 2013.

5. Order of Presentation of Evidence. Since Student filed this case, his witnesses will testify first.

6. Conduct of Representatives and Hearing Room Decorum. Legal representatives, 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 set to vibrate during the hearing unless permission to the contrary is obtained from the ALJ.

7. Special Needs and Accommodations. A Spanish language interpreter is required for both days of the hearing.

8. Hearing Closed To the Public. At the request of Student's mother, the hearing will be closed to the public. If Student's mother wishes to open the hearing to the public, she shall inform the ALJ at the beginning of the hearing.

9. 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 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 THE 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.

10. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

Dated: May 06, 2013

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings