BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PALO ALTO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025030847

ORDER FOLLOWING PREHEARING CONFERENCE CLARIFYING ISSUES AND GRANTING REQUEST FOR CONTINUANCE AND SETTING MEDITION, PREHEARING CONFERENCE, AND DUE PROCESS HEARING; ORDER DISMISSING NON-IDEA CLAIMS

MAY 9, 2025

On May 9, 2025, Administrative Law Judge Rommel P. Cruz, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Nicole Hodge Amey appeared on behalf of Student. Attorney Nicole Mirkazemi appeared on behalf of Palo Alto Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

CONTINUANCE

This matter was currently scheduled for hearing on May 20, 21, and 22, 2025. The hearing in the sibling's case, OAH case number 2025030845, is also set for May 20, 21, and 22, 2025. The parties jointly moved to continue the hearing because of the conflict.

During the PHC, OAH ordered the hearing continued to May 28 and 29, 2025, because of the hearing conflict. After continuing the hearing and following an extensive discussion clarifying the issues to be heard and decided, the parties jointly requested to mediate and to further continue the due process hearing to allow for mediation. The parties requested a mediation date of June 17, 2025, 9:00 AM to 12:30 PM, and to continue the hearing to August 12, 13, and 14, 2025.

A due process hearing must be conducted, and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. OAH considers all relevant facts and circumstances in determining whether good cause exists to grant an extension. (See Cal. Rules of Court, rule 3.1332(d).)

The parties established good cause to further continue the due process hearing to allow the parties to mediate. Accordingly, the request is granted. All dates are vacated, and the matter will proceed as follows:

Mediation will occur on June 17, 2025, 9:00 AM to 12:30 PM. Mediation will occur by telephone or video.

PHC will be held on August 1, 2025, at 10:00 AM. The parties filed PHC statements, and need not file additional statements unless warranted. Prehearing motions are due to OAH no later than three business days before the PHC, unless good cause is shown as to why the motion was not filed by that date.

Due process hearing will be held on August 12, 13, and 14, 2025, and continue day to day at the discretion of the ALJ. The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, unless otherwise ordered.

The parties shall immediately notify all potential witnesses of the hearing dates and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena.

ISSUES AND PROPOSED RESOLUTIONS

The issues at the due process hearing, and proposed resolutions, as alleged in the complaint and clarified by the parties and the ALJ during the PHC, and subject to further clarification at the August 1, 2025 PHC, are:

ISSUES

A free appropriate public education is called a FAPE. An individualized education program is called an IEP.

1. Did Palo Alto Unified deny Student a FAPE by failing to timely provide Parents a complete copy of his educational records pursuant to Parent's records requests on:
    a. August 15, 2023; and
    b. October 28, 2024?
2. Did Palo Alto Unified deny Student a FAPE from March 20, 2023, through August 14, 2023, by failing to timely assess Student in:
    a. psychoeducation;
    b. behavior;
    c. occupational therapy;
    d. speech and language; and
    e. mental health?
3. Did Palo Alto Unified deny Student a FAPE from March 20, 2023, through March 20, 2025, by failing to conduct a comprehensive post-secondary transition assessment of Student?
4. Did Palo Alto Unified deny Student a FAPE from March 20, 2023, through March 20, 2025, by failing to convene timely IEP team meetings within 30 days of Parents requests?
5. Did Palo Alto Unified deny Student a FAPE by failing to convene a timely IEP meeting by August 2023 to review assessments?
6. Did Palo Alto Unified deny Student a FAPE during the 2023-2024 school year by:
    a. failing to offer goals that appropriately addressed Student's needs in math, writing, organization skills, transition to independent living, communication, counseling, mental health, and post-secondary transition; and

b. failing to offer any goals in social skills, fine motor skills, sensor processing, and executive functioning?

7. Did Palo Alto Unified deny Student a FAPE during the 2024-2025 school year, through March 20, 2025, by:
    a. failing to offer goals that appropriately addressed Student's needs in math, writing, organization skills, transition to independent living, communication, counseling, mental health, and post-secondary transition; and
    b. failing to offer any goals to address Student's needs in social skills, fine motor skills, sensor processing, and executive functioning?
8. Did Palo Alto Unified deny Student a FAPE by failing to timely request a due process hearing when Parents did not provide full consent to the IEPs dated August 24, 2023, September 5 and 12, 2023, and May 21, 2024?
9. Did Palo Alto Unified deny Student a FAPE from October 10, 2023, through March 20, 2025, by delaying and preventing Parents from obtaining a timely independent educational evaluation because Palo Alto Unified imposed an unreasonably restrictive criteria for the independent educational evaluation?
10. Did Palo Alto Unified deny Student a FAPE by failing to offer an appropriate transition plan:
    a. from March 21, 2023, through the 2022-2023 school year;
    b. during the 2023-2024 school year; and
    c. during the 2024-2025 school year, through March 21, 2025?

11. Did Palo Alto Unified deny Student a FAPE by predetermining his IEPs from March 20, 2023, through March 20, 2025?
12. Did Palo Alto Unified deny Student a FAPE during the 2023-2024 school year by failing to offer:
    a. appropriate services for post-secondary transition, transition to a school campus, behavior, academics, speech and language, mental health, social skills, and occupational therapy; and
    b. an appropriate placement?
13. Did Palo Alto Unified deny Student a FAPE during the 2024-2025 school year, through March 20, 2025, by failing to offer:
    a. appropriate services for post-secondary transition, transition to a school campus, behavior, academics, speech and language, mental health, social skills, and occupational therapy; and
    b. an appropriate placement?
14. Did Palo Alto Unified deny Student a FAPE from March 20, 2023, through March 20, 2025, by failing to assess him for a specific learning disability?
15. Did Palo Alto Unified deny Student a FAPE from March 20, 2023, through March 20, 2025, by failing to find him eligible for special education services because of a specific learning disability?

16. Did Palo Alto Unified deny Student a FAPE by failing to make a clear written offer of specialized academic instruction in the:

    a. August 14, 2023 IEP; and

    b. May 14, 2024 IEP?

At the PHC, Palo Alto Unified moved to dismiss Student's claims outside OAH's jurisdiction. Student did not oppose the motion.

The claims in Issue 11, as described in Student's due process hearing request and prehearing conference statement, are based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), the Americans with Disabilities Act (42 U.S.C. §§ 1201, et seq.), and other related civil rights statutes. OAH's jurisdiction is limited to claims based on the Individuals with Disabilities with Education Act (20 U.S.C. § 1400 et. seq.). OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code, the Americans with Disability Act (42 U.S.C. §§ 1201, et seq.), the Unruh Civil Rights Act (Civ. Code, § 51), or any other civil rights statutes. Accordingly, Issue 11 is dismissed because OAH does not have jurisdiction to address those claims.

PROPOSED RESOLUTIONS

The resolutions requested by Student include compensatory educational services, reimbursement for educationally related costs, and publicly funded independent educational evaluations. Student also requests Palo Alto Unified provide its special education staff 50 to 100 hours of training in conducting assessments, identifying disabilities, and developing an appropriate IEP.

Palo Alto Unified filed its response to Student's complaint on March 28, 2025. (*M.C. v. Antelope Valley Union High School Dist.* (9th Cir. 2017) 858 F.3d 1189, 1199-1200.)

MOTION FOR SANCTIONS

On March 25, 2025, OAH set an order to show cause as to why sanctions should not be imposed on Student's attorney for the undue consumption of judicial resources when Student's attorney re-filed under two new case numbers, identical motions to consolidate Student's and his sibling's cases, that Student and his sibling lost previously. The Order to Show Cause was initially scheduled for April 28, 2025, but was rescheduled by OAH to May 9, 2025, to be heard at the prehearing conference.

On May 7, 2025, after close of business, Student filed a response to the Order to Show Cause. On May 7, 2025, after Student filed his response, Palo Alto Unified filed a motion for sanctions. OAH deemed both filings filed on May 8, 2025.

At the PHC, Student's attorney indicated she had not yet reviewed Palo Alto Unified's motion for sanctions, and requested an opportunity to file a written response. The request is granted. Student shall file with OAH a response to the motion for sanctions no later than 5:00 PM on May 13, 2025.

Palo Alto Unified's motion did not include an invoice of attorney's fees it seeks to shift to Student's attorney. Palo Alto Unified shall file with OAH, and serve Student, a detailed invoice of the fees it seeks to shift to Student's attorney, supported by declaration, no later than 5:00 PM on May 12, 2025. OAH will address the motion in a separate order.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings