BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

STOCKTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025060078

ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE, DENYING SANCTIONS, GRANTING BIFURCATION, AND DENYING LIMITING ISSUES

AUGUST 5, 2025

On August 1, 2025, Administrative Law Judge Daniel Senter, 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 Joshua Cruz appeared on behalf of Student. Attorney Rebecca Diddams appeared on behalf of Stockton Unified School District. The PHC was recorded. Based

upon discussion with the parties, the ALJ issues the following order: Hearing Dates, Times, and Location

DUE PROCESS HEARING

The hearing will take place on August 12, 13, and 14, 2025 and continue day to day at the discretion of the ALJ. Stockton moved to bifurcate the hearing. As discussed more fully below, Stockton's motion is granted. Therefore, the matter will proceed as currently scheduled. Thereafter, the ALJ will schedule a new prehearing conference and due process hearing dates should issues remain. The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, unless otherwise ordered. Student anticipates it will take five days to complete the hearing. Stockton anticipates it will take two days to complete the hearing. Additional hearing dates will be discussed with the ALJ during the hearing.

HEARING LOCATION

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) OAH will conduct the due process hearing by videoconference using the Zoom application. Unless otherwise ordered, participants are required to appear by videoconference using computer or device with video capability and Zoom.

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 ALJ has clarified and reorganized the statement of some issues as allowed by the holdings in *J.W. v. Fresno Unified Sch. Dist.* (9th Cir. 2010) 626 F.3d 431, 442-443, and *Ford v. Long Beach Unified Sch. Dist.* (9th Cir. 2002) 291 F.3d 1086, 1090. (But see *M.C. v. Antelope Valley Union High Sch. Dist.* (9th Cir. 2017) 858 F.3d 1189, 1196, fn. 2 [dictum].) No change in substance has been made.

A party believing that an issue has been misstated or improperly omitted shall promptly file a notice in writing, prior to the first day of hearing, stating its concern and referring to supporting portions of the complaint. No motion to amend the issues may be made for the first time at the hearing.

In this Order, free appropriate public education is referred to as FAPE. Individuals with Disabilities Education Act is referred to as IDEA. Individualized education program is referred to as IEP.

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 are:

ISSUES

1) Did Stockton deny Student a FAPE during the 2024-2025 school year, by:
   a) failing to timely schedule an IEP team meeting following Parents' December 5, 2024, IEP meeting request;
   b) conducting an occupational therapy assessment dated February 27, 2025 that was not legally compliant;

c) conducting a psychoeducational assessment dated April 18, 2025 that was not legally compliant;
d) conducting a speech and language assessment dated April 18, 2025, that was not legally compliant; and
e) failing to timely provide Student's education records in response to Parents' May 2, 2025, request?

PROPOSED RESOLUTIONS

The resolutions requested by Student include declaratory relief, independent educational evaluations, and training.

At the PHC, Stockton asserted that it was not on notice about the arguments Student would bring with respect to Student's requested remedy in its complaint: "Any and all appropriate remedies as supported by law." Student and Stockton may present evidence and argument at hearing regarding remedies. The undersigned ALJ did not make any orders at the PHC regarding the requested remedies, nor does the undersigned ALJ make any orders about such in this Order Following PHC. ALJs have broad latitude to fashion appropriate equitable remedies for the denial of a FAPE. (*School Comm. of Burlington v. Department of Educ*. (1985) 471 U.S. 359, 370 [105 S.Ct. 1996, 85 L.Ed.2d 385]; *Parents of Student W. v. Puyallup School Dist*., No. 3 (9th Cir. 1994) 31 F.3d 1489, 1496.)

Stockton filed its response to Student's complaint on June 13, 2025. (*M.C. v. Antelope Valley Union High School Dist*. (9th Cir. 2017) 858 F.3d 1189, 1199-1200.) Stockton filed an amended response on August 1, 2025.

At the PHC, Student moved to strike the amended response because Student alleged it was filed late without a declaration. Student asserted that the response was

not filed within ten days of the complaint or three days prior to the PHC. Student argued the amended response was prejudicial to Student, suggesting it raised new facts and might require additional subpoenas.

Stockton asserted the amended response was not a motion and not subject to the timelines referenced by Student. Stockton contended the amended response was intended to provide further clarification for hearing.

The undersigned ALJ took the parties' arguments at the PHC under submission. Student failed to cite any persuasive law or facts that the amended response would prejudice Student or that the amended response should be struck. Accordingly, Student's motion to strike the amended response is denied.

EXHIBITS

The parties shall serve their exhibits on each other in compliance with Education Code section 56505, subdivision (e)(7). The parties shall upload their exhibits electronically according to the Order Setting Procedures for Filing Exhibits Electronically. Timely uploading electronic hearing exhibits five business days before the first day of hearing constitutes that party's timely exchange of evidence in compliance with Education Code section 56505, subdivision (e)(7). If further assistance is needed, please contact OAH at OAHSEOps@dgs.ca.gov.

Except for good cause shown, or unless used solely for rebuttal or impeachment, any exhibit not timely exchanged as required by Education Code section 56505, subdivision (e)(7) shall not be admitted into evidence at the hearing unless the ALJ rules that it is admissible.

IDENTIFYING EXHIBITS AND PAGE NUMBERS

Each exhibit must be identified by a letter and number. Student must use the letter S before the number to identify Student's exhibits. Stockton must use the letter D before the number to identify Stockton's exhibits. For example, S-1 means Student's exhibit 1 and D-1 means Stockton's exhibit 1. A cover sheet with this identifying letter and number should be the first page of each exhibit. The electronic evidence program will automatically number the exhibits and additional page numbering or bates stamping should not be added.

CONTENT

Each exhibit must consist of one document. Separate documents may not be combined into one exhibit. Emails or letters may be consolidated into one exhibit if they are part of a single chain of messages. Exhibits should be in chronological order.

Parties should include resumes or curriculum vitae for each witness expected to testify as to their credentials.

Stockton's exhibits must include a copy of the school calendar for each school year in question.

Electronic copies of exhibits filed with OAH shall be filed by 5:00 PM at least five business days before the first day of hearing. Please refer to the General Order OAH issued with the Scheduling Order that contains the Order Setting Procedures for Filing Exhibits Electronically. It includes instructions for how to file exhibits electronically. Beginning three business days before the hearing, the electronic evidence system will not allow parties to upload exhibits unless permitted by the ALJ during the hearing at the ALJ's discretion.

WITNESSES

The parties shall serve their list of witnesses on each other in compliance with Education Code section 56505. No party shall be permitted to call any witnesses not timely disclosed except for good cause shown, supported by written declaration under penalty of perjury, and at the discretion of the ALJ.

Parties are responsible for ensuring that all participants are familiar with and follow the Instructions for Joining the Online Due Process Hearing provided with this Order. Participants who have not previously used the Zoom application, may find informative instructions on at by visiting, Getting Started with Zoom at https://support.zoom.us/hc/en-us/categories/200101697.

The parties are responsible for ensuring that witnesses join the virtual hearing room at the designated date and time to testify. Witnesses are required to join the due process hearing by computer and appear by videoconference unless they do not have the necessary computer equipment. If a witness does not have the necessary equipment, the ALJ may permit the witnesses to appear by audio only or by telephone. "Audio only" means using a computer without video. A witness's inability to attend the hearing by videoconference will be discussed at the start of the hearing.

The parties are responsible for producing their own witnesses unless otherwise ordered by the ALJ. Parties shall make witnesses under their control reasonably available. The parties must schedule their witnesses to avoid delays in the hearing and to minimize or eliminate the need for calling witnesses out of order.

The ALJ has discretion to limit the number of witnesses and the time allowed for testimony. Education Code, section 56505.1, subdivision (h), empowers the ALJ to set a reasonable limit on the length of the hearing after consideration of four factors. The

first two factors are the issues to be heard and the complexity of facts to be proven. The second two factors are the ability of the parties or their representatives to present their respective cases and the parties' estimates of the time needed to present their cases.

MEET AND CONFER

The parties are encouraged to review and shorten their witness and exhibit lists before the hearing. Evidence may be excluded if it is repetitive, cumulative, or insufficiently probative to justify the time it would take to hear.

The parties are ordered to meet and confer no later than 5:00 PM on August 6, 2025 to discuss scheduling witnesses and how much time each witness will take. The parties shall discuss any issues related to counsel and witnesses appearing by videoconference for hearing, electronically viewing exhibits during the hearing, and subpoenas, if any. The parties should attempt to eliminate duplicate exhibits from their hearing exhibits. The parties shall discuss whether they can produce a written stipulation as to pertinent facts, contentions, resolutions and the authenticity and admissibility of documents to shorten the length of time needed for the hearing.

As part of the meet and confer process, Stockton will inform Student which proposed witnesses are Stockton employees. Each side will inform the other whether they are able to make witnesses available with notice to attend the hearing on a certain date and time instead of a subpoena.

Cooperation in providing access to witnesses is expected. However, ultimately, the parties are responsible for making sure their witnesses attend the hearing, unless otherwise ordered by the ALJ. A party's failure to properly notify or subpoena a witness is not an excuse justifying additional hearing time, or a delay in the hearing.

At the PHC, Student requested contract and contact information for Stockton staff members who appeared on Student's witness list. Stockton objected to providing any confidential employee information. Stockton represented that it was not aware of any reason why Stockton would not be able to produce any of Student's witnesses who were under Stockton's control and that it would notify Student if that changed. Given Stockton's representation, Student's request was moot and the undersigned made no ruling on Student's request at the PHC.

PARTICIPANT INFORMATION FORM

Both parties have an ongoing obligation to ensure that OAH has current information on the Participant Information Form filed with OAH and shall file an updated Form as necessary. The Participant Information Form is not served upon the opposing party. The ongoing obligation to ensure that the Participant Information Form filed with OAH is current does not change the parties' statutory obligation to timely disclose their witnesses to the other party(s) at least five business days prior to hearing. The parties must file an updated Participant Information Form to inform OAH of any changes, additions, or deletions, including the required information no later than 5:00 PM at least two business days before the first day of hearing.

Any contact information provided shall be used for the limited purpose of issuing subpoenas or for contacting a witness to attend the hearing. Any contact information shall not be disclosed to any other person.

EVIDENCE PRESENTATION

In an administrative proceeding, the burden of proof is ordinarily on the party requesting the hearing. (*Schaffer v. Weast* (2005) 546 U.S. 49, 62.) In this case, Student

requested the hearing and bears the burden of proof. Student's case-in-chief shall be presented first, followed by Stockton, unless otherwise ordered.

WITNESS LISTS

The parties must provide a joint proposed witness list to the ALJ on the first day of hearing. The list should include the first and last name of the witness, which party is calling the witness to testify, and include dates and time estimates of each witness's expected testimony. In the event an agreement cannot be reached, each party shall prepare a separate written list. Student must have witnesses available in case there is no agreement.

At the beginning of the hearing, the ALJ and the parties will discuss the length of time anticipated for each witness and scheduling issues for individual witnesses. The ALJ will finalize the witness schedule. Parties must be prepared at the end of each day to discuss the witnesses to be presented the next day and the estimated time for the testimony of each witness.

SCOPE OF WITNESS EXAMINATION

Each witness will be called to testify only once, except for rebuttal purposes. All parties must examine a witness on all issues when the witness is first called to testify. Requiring a witness to appear only once takes priority over the order in which parties present their case-in-chief.

AUDIO ONLY OR TELEPHONIC TESTIMONY

Whether a witness may appear by audio only or telephone instead of videoconference is a matter within the discretion of the ALJ. (Cal. Code Regs., tit. 5,

§ 3082, subd. (g).) Any party seeking to present a witness by audio only or telephone shall request permission to do so before the hearing. Any party seeking to present a witness who cannot access exhibits electronically must inform the ALJ at the beginning of the hearing.

ELECTRONIC RECORDINGS

AUDIO RECORDING

Both parties requested permission to make an audio recording of the hearing for their personal note-taking needs. Permission to make an audio recording is granted, subject to the following conditions:

1. the OAH recording is the only official recording;
2. the parties shall turn their recording device on and off at the same time that the ALJ is on and off the record to avoid recording conversations while off the record;
3. operation of the party's recording mechanism will not be allowed to delay the hearing;
4. a party's recording may not be given, provided or played to a witness, or potential witness;
5. the recording is subject to the same confidentiality as the due process hearing; and
6. participants shall not take screenshots of the videoconference nor share or publish any portion of the videoconference or audio recording.

VIDEO RECORDING

No party, witness or anyone else may videorecord any part of the proceedings or stream live through any means.

RECORDINGS AS EXHIBITS

Recordings may not be uploaded electronically without the ALJ's permission. The ALJ has discretion to admit or exclude evidence in the form of a recording. Any request to submit a recording shall be considered at the time of hearing.

The ALJ may grant or deny the request or grant the request subject to certain conditions. The party offering the recording must establish that all or a part of the recording is relevant. The ALJ may request a transcript of the portion of the recording requested or have the party offering the recording to provide an exact identifiable portion of the recording the party seeks to admit. The identities of any person speaking on the portion of the tape being introduced must be established. An ALJ may allow the opposing party to offer additional portions of a recording to establish the context, or to rebut, the recording.

COMPENSATORY EDUCATION OR REIMBURSEMENT

Any party seeking reimbursement for expenditures shall present admissible evidence of these expenditures, or a stipulation to the amount of the expenditures. A party seeking compensatory education should provide evidence regarding the type, amount, duration, and need for any requested compensatory education. Documents offered as evidence to support a request for reimbursement must be separated by vendor.

MOTIONS

Prior to the PHC, Student filed a motion for sanctions and Stockton filed motions to limit issues, bifurcate, and quash Student's subpoenas. The parties argued these motions at the PHC. The undersigned ALJ took the arguments under submission and did not rule on any of the motions at the PHC.

Any motion that was not filed three business days before the PHC, shall be supported by a declaration under penalty of perjury establishing good cause why the motion was not timely filed.

STUDENT'S MOTION FOR SANCTIONS

On July 25, 2025, Student filed a motion for sanctions, attaching a declaration and exhibits. On July 30, 2025, Stockton filed an opposition.

Student asserts that the filing of Stockton's July 8, 2025, motion to dismiss was frivolous and in bad faith. Student contends that Stockton filed a similar motion to dismiss in an earlier case that was denied, and therefore, Stockton should have known that its July 8, 2025, motion to dismiss would also be denied. Student seeks sanctions or cost shifting related to expenses incurred due to Stockton filing the July 8, 2025, motion to dismiss.

Stockton asserts that its July 8, 2025, motion to dismiss was filed in good faith. Stockton further asserts that its July 8, 2025, motion to dismiss is distinguishable from the earlier motion to dismiss because unlike in that case, the parties here do not dispute they are bound by a settlement agreement.

In certain circumstances, a Special Education Division ALJ is authorized to shift expenses from one party to another. (Gov. Code, §§ 11405.80, 11455.30; Cal. Code.

Regs., tit. 5, § 3088; see *Wyner ex rel. Wyner v. Manhattan Beach Unified School Dist*. (9th Cir. 2000) 223 F.3d 1026, 1029 ["Clearly, [California Code of Regulations] § 3088 allows a hearing officer to control the proceedings, similar to a trial judge."].)

An ALJ may, "order a party, the party's attorney or other authorized representative, or both, to pay reasonable expenses, including attorney's fees, incurred by another party as a result of bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay." (Gov. Code, § 11455.30, subd. (a); Cal. Code. Regs., tit. 5, § 3088, subd. (a).) An order to pay expenses is enforceable in the same manner as a money judgment, or by seeking a contempt of court order. (Gov. Code, § 11455.30, subd. (b).)

"Actions or tactics" is defined as including, but not limited to, making or opposing motions or filing and serving a complaint. (Gov. Code, §11455.30, subd. (a); Code Civ. Proc., § 128.5, subd. (b)(1).) "Frivolous" means totally and completely without merit or for the sole purpose of harassing an opposing party. (Gov. Code, § 11455.30, subd. (a); Code Civ. Proc., § 128.5, subd. (b)(2).) A finding of "bad faith" does not require a determination of evil motive, and subjective bad faith may be inferred. (*West Coast Development v. Reed* (1992) 2 Cal.App.4th 693, 702.) However, the imposition of sanctions does require a showing that the actions were meritless or frivolous and that the action was pursued in bad faith. (*Campbell v. Cal Gard Sur. Services, Inc*. (1998) 62 Cal. App. 4th 563, 574.)

Here, Student failed to meet its burden to establish that filing of Stockton's July 8, 2025, motion to dismiss was frivolous or meritless and in bad faith. Student did not demonstrate the July 8, 2025, motion to dismiss was the same as the earlier motion to dismiss. Moreover, Student failed to offer any legal authority that filing a motion to

dismiss based on a settlement agreement in a case such as this constitutes frivolous or meritless action pursued in bad faith. Student's motion for sanctions is DENIED.

STOCKTON'S MOTION TO BIFURCATE

On July 29, 2025, Stockton filed a motion to bifurcate the hearing into two phases, attaching a declaration. Stockton requests that the first phase be held to determine whether the issues raised in Student's current complaint are barred by a settlement agreement between the parties. On August 1, 2025, Student filed an opposition, attaching exhibits. On August 5, 2025, Stockton filed a reply.

Federal and state laws pertaining to special education due process administrative proceedings do not contain a specific reference to the procedure for bifurcating issues at trial. The ALJ has the discretion to bifurcate an issue raised in the pleadings, and hear it in a separate hearing, if doing so would be convenient, would result in judicial economy or would avoid prejudice to a party. (Gov. Code, §11507.3, subd. (b).) Generally, OAH will bifurcate a hearing where the resolution of the claim to be determined in the first hearing may be dispositive of the entire matter.

Stockton contends that all Student's claims in the current complaint are barred by a prior settlement agreement between the parties. Stockon asserts the settlement agreement was signed by Parents on June 2, 2025, and included a broad waiver of all Student's claims through that date. Stockton argues bifurcation is warranted under Government Code section 11507.3, subdivision (b), because bifurcating the case will be conducive to expedition and economy. Stockton asserts that the first phase of the hearing would involve different witnesses than the second and that Stockton would be prejudiced by having to present its entire defense, when it believes Student does not have grounds to bring any of its claims. In particular, Stockon contends that the second

phase of the hearing would involve Stockton witnesses relevant to Student's assessments and the timing of the IEP, which do not overlap with the witnesses who would appear in the first phase regarding the settlement agreement.

Student opposes bifurcation because it would limit Parents' right to assert arguments regarding the doctrine of equitable and promissory estoppel. Student contends that Stockton's actions subsequent to the settlement agreement are relevant to issues concerning equitable and promissory estoppel. In particular, Student asserts that Parents relied on Stockton's representations regarding independent education evaluation rights, and for this reason, Stockton should be estopped from later claiming that Parents waived their right to pursue their IEE claims under the prior settlement agreement. Student also contends that bifurcating would not be conducive to expedition and economy because the Parents would need to serve as witnesses in both phases and the parties would have to submit closing briefs and wait for the ALJ's ruling on the first phase of the hearing.

Based on the arguments presented at the PHC and the clarified issues in the July 14, 2025 Order Following the PHC, the dates of the alleged actions in Student's claims all precede Parent's June 2, 2025, signature of the settlement agreement. Accordingly, Stockton has shown that the determination of whether the settlement agreement included a waiver of all Student's claims through June 2, 2025, could eliminate all issues alleged in the instant complaint and that would be conducive to judicial economy.

Stockton demonstrated that bifurcation serves judicial economy. For all these reasons, Stockton's motion to bifurcate is GRANTED.

STOCKTON'S MOTION TO LIMIT ISSUES

On July 29, 2025, Stockton filed a motion to limit issues, attaching a declaration. On August 1, 2025, Student filed an opposition, attaching a declaration. On August 5, 2025, Stockton filed a reply.

Parents have the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) OAH has jurisdiction to hear due process claims arising under the Individuals with Disabilities Education Act. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Stockton contends issues two, three, and four are moot because it has already provided Student with independent educational evaluations, which is Student's requested relief. In addition, Stockton contends issues one and five seek declaratory relief, and OAH does not have jurisdiction to provide Student with declaratory relief regarding Stockton's alleged failure to timely hold an IEP meeting or provide records as described in Student's complaint. Accordingly, Stockton asserts that OAH does not have jurisdiction over any of Student's claims.

Student contends Stockton's granting of Student's IEE requests does not preclude Student from challenging the legal compliance of the assessments at issue. Student asserts that the legal compliance of the challenged assessments is a different claim than whether Stockton funded the IEEs. Student also asserted at the PHC that the requested relief for issues 1.a. and 1.e. is not limited to declaratory relief.

Stockton failed to meet its burden that OAH lacks jurisdiction over Student's issues at this juncture, such that Student's issues should be limited. While Stockton

identified that some of Student's requested relief may have already been granted, Stockton failed to prove there was no remaining live controversy as to the issues. As to the claims regarding the legal compliance of the assessments, Issues 1.b., 1.c., and 1.d., Stockton failed to prove these issues were necessarily mooted by the granting of IEEs. Likewise, Stockton failed to prove that issues 1.a. and 1.e. are outside OAH's jurisdiction. The requirement to schedule an IEP team meeting and provide copies of educational records following parental request are rights conferred by the IDEA and California's education code. Student asserted the failure to comply with these requirements denied Student a FAPE. As defined as within the IDEA's jurisdiction, these are matters regarding, "the provision of a free appropriate public education to such child," and Stockton failed to establish how such claims are not within OAH's jurisdiction. Moreover, Stockton only addressed the declaratory relief sought, and failed to address the requested remedy of staff training and OAH's broad equitable authority to grant remedies. Stockton's motion to limit issues is DENIED.

STOCKTON'S MOTION TO QUASH

On July 31, 2025, Stockton filed a motion to quash Student's subpoenas directed at Hollis Pass, a speech language pathologist who contracts with the Stockton; Kellie Mendoza, Stockton's school psychologist; and Pali Gill, Stockton's occupational therapist. On August 5, 2025, Student filed an opposition, attaching a declaration and exhibit.

These subpoenas are not relevant to the first phase of the bifurcated hearing. Accordingly, Stockton's motion to quash remains pending and will be ruled on following the first phase of the bifurcated hearing, if needed. Whether the issues addressed by the motion to quash will necessitate a ruling will depend on the outcome of the first phase of the bifurcated hearing.

STIPULATIONS

Stipulations to pertinent facts, contentions, resolutions and authenticity and admissibility of documents are encouraged. Any proposed stipulation shall be submitted to the assigned ALJ in writing prior to the start of the hearing.

CONDUCT OF PARTICIPANTS AND HEARING ROOM DECORUM

All participants to the videoconference should observe the same decorum as in an in-person due process hearing. Participants must conduct themselves in a professional and courteous manner at all times. Cellular phones, telephones and computer notifications must be shut off or set to silent during the hearing unless the ALJ grants permission otherwise. Participants should appear from a private location, unless otherwise ordered. Participants should take reasonable efforts to minimize background noise and maintain adequate room lighting. Use of virtual background images are at the discretion of the ALJ. Witnesses are prohibited from reading exhibits, documents, notes, text messages, telephones or computers while testifying, unless permitted to do so by the ALJ. The parties, their representative and witnesses are prohibited from passing notes to, exchanging electronic messages with, or signaling the witness in any way while the witness is testifying.

LANGUAGE INTERPRETERS AND REASONABLE ACCOMMODATIONS

Neither party requested any accommodation or language interpreter.

A party or participant in this case, such as a witness, requiring reasonable accommodation to participate in a mediation or hearing may contact OAH at (916) 263-0880, or send an email to OAHADA@dgs.ca.gov as soon as the need is known. The e-mail should have "Request for Accommodation" in the Subject Line.

Additional information concerning requests for reasonable accommodation is available on OAH's website at: https://www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Request-Reasonable-Accommodations-for-OAH-Legal-Proceedings.

HEARING OPEN TO THE PUBLIC

The hearing is open to the public. Special education hearings are closed to the public unless a student requests the hearing to be open to the public.

Student has requested an open hearing. Either party may forward the Zoom hearing link invitation to observers. Observers do not need to identify themselves but must have respectful usernames when joining the hearing. Observers will be admitted at the beginning of each day of hearing, as well as after the lunch break. The ALJ may admit observers at other times pursuant to the ALJ's discretion. Any prospective witness may not observe the hearing until their testimony is completed and with the ALJ's permission.

By choosing an open hearing, Student is on notice that highly sensitive personal information will be seen and heard by observers. The following Order applies to observers:

1. Microphone and video shall be off at all times, unless otherwise ordered;
2. Hearing observers will not be allowed to record, photograph, or broadcast the hearing. (California Rules of Court, rule 1.150.);
3. An ALJ may exclude persons whose actions impede the orderly conduct of the hearing, restrict attendance because of the physical limitations of the hearing facility, or take other action to promote due process or the orderly conduct of the hearing. (Cal. Code Regs., Tit. 1, § 1030, subd. (e).) Further,

the ALJ may order an open hearing to be closed or make other protective orders to the extent necessary or proper to ensure a fair hearing in the circumstances of the case, including to protect a minor witness or a witness with a developmental disability. (Gov. Code § 11425.20, subd. (a).)

Failure to follow these orders may result in sanctions, including removal or other sanctions as the law allows.

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 if 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. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH by visiting OAH Secure e-file at https://www.applications.dgs.ca.gov/oah/oahsftweb.

If a full and final written settlement agreement is reached after 4:00 PM 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.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed 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 before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

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.

Daniel Senter

Daniel Senter
Administrative Law Judge
Office of Administrative Hearings