BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT AND SACRAMENTO CITY UNIFIED SPECIAL EDUCATION LOCAL PLAN AREA.	OAH Case No. 2019020402 ORDER ON REQUEST FOR CLARIFICATION

On May 13 and 17, 2019, administrative law judge Marson issued two separate orders following prehearing conferences in this matter. On May 30, 2019, Student filed a request for clarification of those orders.

Student seeks clarification of the following issues: (1) opening statements; (2) the procedure and presentation of witnesses and evidence for hearing; (3) the presentation timing of child find evidence; and (4) the omission of Sacramento City Unified Special Education Local Plan Area (SELPA) as a party in the orders following the prehearing conferences.

DISCUSSION

Opening Statements

Student seeks clarification regarding opening statements and if the parties will have one opening statement at the commencement of the hearing, or separate opening statements during each portion of the hearing. Although not previously determined, each party shall have the opportunity to make one opening statement at the commencement of the hearing that includes all issues in this matter.

Presentation of Evidence and Witnesses at Hearing

Student seeks clarification of the witness and evidence presentation as it relates to section 5 and 6 of the May 17, 2019, Order Following Prehearing Conference.

The witness and evidence presentation is further clarified as stated below. Student shall begin the presentation of his case with calling witnesses and introducing evidence as it relates to the time period at issue in this case. Sacramento City and SELPA will also have

the opportunity to call witnesses and introduce evidence as it relates to the applicable time period. For the initial portion of the hearing, each witness shall be called to testify only once, and all parties shall examine the witness solely as to the applicable time period when the witness is first called. 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. Each party may make an oral summary of their evidence at the end of the evidence presented for the statutory time period at issue in the case. The administrative law judge will then make an oral ruling setting forth the time period for which the issues in this case will be adjudicated, whether it be two years from the date of filing or at an earlier point in time. That oral ruling will be explained in the Decision following the due process hearing.

After the ruling is made, Student shall proceed with calling witnesses and introducing evidence as it relates to all issues. This can include witnesses calling witnesses who previously testified in the initial phase of the hearing. Sacramento City and SELPA will also have the opportunity to call witnesses and introduce evidence as it relates to all other matters. For this portion of the hearing, each witness shall be called to testify only once, except for rebuttal purposes, and all parties shall examine the witnesses on all issues when the witness is first called. 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.

Child Find Evidence

Student argues that to address the applicable statutory period in this case, he must also address the child find issues between August 2015 and August 2017, and call Respondents' employees regarding the suspicion of a disability and child find activities. Student uses the example that once Respondents had a suspicion of Student's disability, they were obligated to provide an assessment plan, procedural safeguards, and/or prior written notice to grandparents. Because they did not, Student argues Respondents withheld the information which triggers the issues related to the statute of limitations.

Student may only introduce evidence as it relates to the time period, during that portion of the hearing, not substantive issues. To the extent that Student believes child find issues are related to the time period at issue, he should be prepared to present an offer of proof for any substantive witness at that time.

Named Parties

The SELPA continues to be a party in this matter and was inadvertently omitted from the prior order's caption.

IT IS SO ORDERED.

DATE: June 3, 2019

DocuSigned by:
Cynthia Fritz
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CYNTHIA FRITZ
Administrative Law Judge
Office of Administrative Hearings