BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: STUDENT, v. ANAHEIM UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2017090353 ORDER REGARDING REPRESENTATION

On September 12, 2017, Student's Putative Father signed and filed a Request for Due Process Hearing on behalf of Student, asserting that he is authorized to file the complaint on behalf of Student. Student is over the age of 18. Documents in prior cases filed with the Office of Administrative Hearings involving Student have indicated that Student's Putative Father is not Student's biological or adoptive parent. Documentation has been submitted that Student's biological mother has power of attorney over Student.

The parties to a due process proceeding have a right to be "accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities." (20 U.S.C. § 1415(h)(1); see also Ed. Code, § 56505, subd. (e)(1).) The right to be represented by an attorney and the right to be accompanied and advised by an individual with special knowledge or training does not mean that attorneys and individuals with special knowledge perform the same function. Attorneys are legally authorized to act on behalf of their clients and to practice law.

On September 28, 2017, the attorney general issued an opinion letter which considered whether the IDEA, the implementing regulations, and/or the California Education Code authorized a party to special education due process proceedings to be represented by a person that was not an active member of the California State Bar. The attorney general's opinion concluded that these laws did not authorize parties to a special education due process hearing to be represented by a person that is not an active member of the California State Bar in due process hearings.

In light of the attorney general's letter, and because neither Mother nor Student are represented by an attorney in this case, Mother and Student are determined to be self-represented. Self-represented parties may be accompanied and advised by persons, including non-attorney "advocates," with special knowledge or training relating to the problems presented in special education matters. Self-represented parties routinely prepare and file legal documents, and participate in mediations, prehearing conferences and due process hearings.

Student's Putative Father is not authorized by law to represent Mother or Student. Therefore, he is not authorized by law to file motions or other briefs on behalf of Mother or Student, or represent Mother or Student in a due process hearing. Accordingly, Mother or Student are to sign any motion or legal document submitted to OAH. As to any prehearing conference, Mother or Student shall participate, which shall be conducted by telephone and Student's Putative Father can listen in and advise Mother and Student. As to the hearing, Mother or Student are to present the evidence and question the witnesses, and Student's Putative Father can accompany them and advise them.

IT IS SO ORDERED.

DATE: October 27, 2017

DocuSigned by:
Peter Paul Castillo
F0BCD8A6A62C4E9...

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings