BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. LEMON GROVE ELEMENTARY SCHOOL DISTRICT,	OAH Case No. 2015050337
LEMON GROVE ELEMENTARY SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2015090042 ORDER DENYING IN PART AND GRANTED IN PART MOTION TO AMEND PREHEARING CONFERENCE OF OCTOBER 9, 2015

On October 12, 2015, the Office of Administrative Hearings, by the undersigned, issued an Order Following Prehearing Conference of October 9, 2015 (PHC Order).

On October 12, 2015, Student filed a Motion to Amend the PHC Order to (1) include that the Due Process Hearing will go forth on October 26, 2015, in addition to the other dates cited in the PHC Order, to amend issue one, (2) to rewrite issue one, (3) to add as a proposed resolution that District be ordered to hold an IEP team meeting to address Student's placement; and (4) to dismiss the fourth proposed resolution where Student requests the funding of an Independent Education Evaluation in the area of assistive technology.

As to the (1), OAH is scheduled to be unavailable on October 26, 2015, because of a scheduled mandatory training for all Special Education Division Administrative Law Judges. Accordingly, Student's motion to amend the PHC Order is denied. The parties should be prepared to discuss an alternative hearing date October 19, 2015, the first day of the hearing.

As to (2), Student seeks to have issue one split into two parts. Issue one now reads:

Since December 14, 2014, has District denied Student a free appropriate public education by failing to provide Student with a completed Individualized Education Program?

Student's request to now add a new issue that District denied Student a free appropriate public education because it did not hold an IEP meeting since January 2015. Student, in his Prehearing Conference Statement and in his amended complaint, crafted the first issue as "Whether the District procedurally and/or substantively denied Student a free appropriate public education on or after December 20, 2014 by failing to make an appropriate offer, including, but not limited to, appropriate goals, services, supports, and placement, or by the manner in which the process was, or was not, followed."

At Prehearing Conference, Student was asked to clarify the issue by being specific as to what is actually being alleged. The ALJ crafted the issue based on that discussion which was approved by Student's counsel as well as District counsel. Since, the proposed new issue one is not a reflection of the issue as originally pled or stated in Student's Prehearing Conference Statement, the request to amend issue one is denied.

As to (3), Student has requested as a proposed resolution that OAH order District to fund Student's placement at Newbridge School. Thus, there is no reason for an IEP meeting to address Student's placement. Student's third request is denied.

As to (4), Student's request is granted and the request for District to fund an Independent Education Evaluation is stricken.

ORDER

1. Student's request to amend the Prehearing Conference Order is denied as to (1), (2), and (3).

2. Student's request to amend the Prehearing Conference Order is granted as to (4) as the request for District to fund an Independent Education Evaluation is stricken as a proposed resolution in the PHC order.

DATE: October 14, 2015

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings