BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENTS ON BEHALF OF STUDENT,	OAH Case No. 2014080899
v.	ORDER FOLLOWING PREHEARING CONFERENCE
HIGH TECH MIDDLE NORTH COUNTY.	

On September 19, 2014, a telephonic prehearing conference was held before Administrative Law Judge Susan Ruff, Office of Administrative Hearings. Brian Sciacca, Attorney at Law, appeared on behalf of Student and Student's parents. Megan Moore, Attorney at Law, and Barbara Hagberg, Attorney at Law, appeared on behalf High Tech Middle North County (High Tech). The PHC was recorded.

Based on discussion of the parties, the ALJ issues the following order:

1. Hearing Dates, Times, and Location. The hearing shall begin at 9:30 a.m. on September 23, 2014, shall continue as needed on September 24, 2014, and September 25, 2014, and shall continue thereafter day to day, Monday through Thursday, as needed at the discretion of the ALJ. The hearing shall begin each day at 9:30 a.m.

The hearing shall take place at the High Tech facility located at 1420 W. San Marcos Boulevard, San Marcos, California, 92078. High Tech's counsel will send a written notice before the hearing to inform OAH and the parties which building the hearing will be in. High Tech will ensure that the hearing location meets the accessibility requirements of the Americans with Disabilities Act, and that the hearing room can be configured in the manner of a courtroom, with a head table for the ALJ, a table for each party, and a table for the witnesses.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

2. Issues. The issues at this expedited due process hearing are listed below.[1]

a) Did High Tech deny Student a free appropriate public education by failing to properly consider parental input in making the manifestation determination?

b) Did High Tech deny Student a FAPE by predetermining the outcome of the manifestation determination individualized education program?

c) Did High Tech deny Student a FAPE by failing to properly consider input from Student's experts presented by the parents during the manifestation determination IEP?

d) Did High Tech deny Student a FAPE by improperly determining that the alleged behavior was not a manifestation of Student's disability?

e) Did High Tech deny Student a FAPE by failing to offer an alternative educational placement and accompanying services to allow Student to participate in the general education curriculum and to make progress on his IEP goals?

3. Exhibits. Exhibits shall be pre-marked and placed in three-ring exhibit binders prior to the hearing. The parties shall use numbers to identify exhibits. The parties may, but are not required to, submit a joint exhibit book. If the parties choose to do so, each party will retain the right to object to any of the exhibits included in that joint book.

Each exhibit shall be internally paginated by exhibit, or all of a party's exhibits shall be consecutively paginated, for example by bates-stamping. Each exhibit binder shall contain a detailed table of contents. At the hearing, each party shall supply an exhibit binder containing its exhibits (or a joint exhibit binder) for use by the ALJ, and a second exhibit binder for use by witnesses. The parties may not serve exhibits on OAH prior to the hearing. In the event of duplicate exhibits, the most legible version will be used.

4. Witnesses. Each party is responsible for procuring the attendance at hearing of its own witnesses. Each party shall make witnesses under its control reasonably available. The parties shall schedule their witnesses to avoid delays in the hearing and to minimize or eliminate the need for calling witnesses out of order.

5. Telephonic Testimony. Whether a witness may appear by telephone 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 telephone shall move in advance for leave to do so, unless the opposing party has stipulated that the witness may appear by telephone. The proponent of the witness shall provide the proposed witness with a complete set of exhibit binders from all parties, containing all of each party's exhibits, prior to the hearing; and shall ensure that the hearing room has sound equipment that allows everyone in the room to hear

[1] In Student's due process hearing request, Student initially included an additional issue regarding assessments. Student withdrew that issue during the PHC.

the witness, and the witness to hear objections and rulings. No witness will be heard by telephone unless all these requirements have been fulfilled.

6. Motions. Prior to the PHC, High Tech made a motion to change the hearing location to the Office of Administrative Hearings in San Diego, California. Student opposed the motion and made a motion to have the hearing held at the San Marcos High Tech facility. After discussion during the PHC, Student's motion was granted and High Tech's motion was denied. The hearing will be held at the High Tech facility in San Marcos. High Tech is responsible for securing an appropriate room, as discussed above in paragraph one.

7. Stipulations. Stipulations to pertinent facts, contentions or resolutions are encouraged. Any proposed stipulation shall be submitted to the assigned ALJ in written form.

8. Conduct of Counsel and Hearing Room Decorum. Counsel, all parties, and all witnesses shall conduct themselves in a professional and courteous manner at all times. Cellular phones, pagers, recorders, and other noisemaking electronic devices shall be shut off or set to vibrate during the hearing unless permission to the contrary is obtained from the ALJ. There is to be no audio or video recording or photography in the hearing room by anyone without the express permission of the ALJ hearing the case.

9. Compensatory Education or Reimbursement. Any party seeking reimbursement of expenditures shall present admissible evidence of these expenditures, or a stipulation to the amount of expenditures, as part of its case in chief. A party seeking compensatory education should provide evidence regarding the type, amount, duration, and need for any requested compensatory education.

10. Special Needs and Accommodations. At present neither party anticipates the need for special accommodation for any witness or party, or for translation services.

11. Hearing Closed To the Public. At the request of the parent, the hearing will be closed to the public.

12. 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 should 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.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER **4:00 P.M**. ON 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. THE

PARTIES SHOULD SIMULTANEOUSLY FAX THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT THE FAXINATION LINE at 916-376-6319.

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

13. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: September 19, 2014

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings