EFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: SAN MATEO FOSTER CITY SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018010197 ORDER GRANTING SAN MATEO FOSTER CITY SCHOOL DISTRICT'S MOTION TO STRIKE NOTICE OF REPRESENTATION

On January 8, 2018, San Mateo Foster City Unified School District (San Mateo) filed an expedited due process hearing request naming Student as respondent. On January 22, 2018, Naum Morgovsky filed a notice of representation in this matter as, "Advocate for Respondent," indicating he is Student's, "Short-Term Guardian." The notice does not indicate that Mr. Morgovsky is a licensed attorney in California.

On January 23, 2018, Mother submitted a "Notice of Appearance," giving notice that Student will be represented by Mother, "with assistance of Naum Morgovsky, Student's Short-Term Guardian, as the advocate for Student herein." Mother requested all documents be addressed to both Mother and Mr. Morgovsky.

On January 23, 2018, San Mateo filed a motion to strike the notice of Mr. Morgovsky as a non-attorney advocate because he lacks standing to represent Student as a non-attorney.

Non-Attorney Advocate

On September 28, 2017, the California Attorney General issued opinion letter 14-101, which considered whether the federal Individuals with Disabilities Education Act, the California Education Code and the implementing federal or state regulations, authorized a party to a special education due process hearing 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.

Mr. Morgovsky is not licensed by the California State Bar. Accordingly, he isnot permitted to act as Student's advocate in the due process hearing.

Non-attorney advocates are permitted to accompany and advise parties in due process matters, including hearings. (20 U.S.C. §1415(h)(1), Educ. Code §56505(e)(1).)

However, in cases where parents wish to have a non-attorney advocate present, the student and parent will be considered self-represented. Self- represented parties routinely prepare and file legal documents, and participate in mediations, prehearing conferences and due process hearings. There are resources available to assist Parents with Due Process, including a Parent Handbook, which may help answer any questions Parent may have. The resources can be found on the internet at:

http://www.dgs.ca.gov/oah/SpecialEducation/Resources.aspx.

Parent may also call the case manager assigned to the case to have paper copies of this information sent, or to answer any questions.

Short-Term Guardian

On January 26, 2018, Student filed an opposition to San Mateo Foster City's motion asserting that on July 16, 2015, Mother executed an, "Appointment of Short-Term Guardian for Minor Child(ren) and Durable Healthcare Power of Attorney," authorizing Mr. Morgovsky to act as a "parent," in this proceeding.

Mother did not submit a copy of the, "Appointment of Short-Term Guardian for Minor Child(ren)." Nothing was presented establishing that Mr. Morgovsky holds Student's educational rights. Mother's request contained within her opposition to San Mateo Foster City's motion to strike that Mr. Morgovsky's should be considered a parent is denied.

Therefore, in this matter from this point forward, Parent is a self-represented litigant. Nothing in this order prevents Parent from being accompanied and advised by a non-attorney advocate or from retaining an attorney.

IT IS SO ORDERED.

DATE: January 29, 2018

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Joy Redmon
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JOY REDMON
Presiding Administrative Law Judge
Office of Administrative Hearings