

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT

v.

OXNARD SCHOOL DISTRICT

CASE NO. 2016100053

DECISION BY SETTLEMENT

(Cal. Code Regs., tit. 5, § 3087)

March 13, 2017

Clifford H. Woosley, Administrative Law Judge, Office of Administrative Hearings, State of California, enters this Decision by Settlement pursuant to section 3087 of title 5 of the California Code of Regulations.

Student, by and through her Parent, filed a Due Process Hearing Request on September 22, 2016, with OAH, naming Oxnard School District. On November 4, 2016, OAH granted a continuance of the hearing to January 31, 2017.

ALJ Woosley started the hearing on January 31, 2017. Attorneys Janeen Steel and Shawna L. Parks appeared on behalf of Student. Mother attended the hearing. Attorneys

Benifacio Bonny Garcia and Lawrence S. Joe appeared on behalf of District. Director of Special Education Services, Amelia Sugden, and Manager of Special Education, Nadia Villapudua, attended on behalf of District.

After hearing commenced, but before the entry of evidence, the parties announced that they had reached a stipulation to amended issues in favor of Student and that the only matters remaining for hearing were the remedies. The parties were granted an additional day to reach agreement as to remedies and, at parties' request, the matter was further continued to February 2, 2017.

On February 1, 2017, the parties submitted a proposed Stipulated Judgment, signed by the parties' attorneys, which OAH considered a request for a decision by settlement. ALJ Woosley continued the hearing to a telephonic status conference on February 3, 2017, at which time ALJ Woosley thoroughly discussed the parties' request for a Decision by Settlement.¹

The matter was continued to Friday, January 10, 2017, at which time the parties filed a fully executed, proposed Stipulated Decision in lieu of a decision on the merits. The matter was then submitted for decision by settlement, pursuant to the terms of the parties' agreement.

STIPULATED AMENDED ISSUES IN FAVOR OF STUDENT

1. Since September 21, 2014, District denied Student a free appropriate public education by not meeting its child find obligations, not evaluating Student in all areas of suspected disability, and not finding Student eligible for special education placement and related services.

¹ The recording of the satus conference is part of this matter's official record.

2. Since September 21, 2014, District denied Student a FAPE by failing to offer Student an individualized education program that met Student's unique needs.

3. Since September 21, 2014, District denied Student a FAPE by failing to offer an individualized education program that was reasonably calculated to offer educational benefit to Student.

4. Student is eligible for special education and related services as a student with a speech or language impairment. District should have found Student eligible for special education and related services as a student with a speech or language impairment as of September 21, 2014.

FACTUAL FINDINGS

1. The parties stipulate that Student is 13 years old and attends the seventh grade at Kamala Elementary School within the Oxnard School District.

2. The parties stipulate that Student is eligible for special education and related services under the category of speech or language impairment. The parties stipulate that District is the local education agency responsible for Student's special education services. The parties stipulate that District should have found Student eligible for special education as of September 21, 2014

3. The parties entered into a Stipulated Decision, which they and their attorneys fully executed and which is part of the official record and incorporated herein. The parties have stipulated to four issues in favor of Student. The parties have further agreed to related and compensatory services.

4. The stipulated issues in favor of Student have been set forth above. The stipulated related and compensatory education services have been incorporated in the Order below.

5. The Stipulated Decision does not contain any agreed-upon terms that are contrary to the law.

LEGAL CONCLUSIONS

1. The Individuals with Disabilities in Education Act and related state laws strongly encourage the settlement of special education disputes. (See, e.g., 20 U.S.C. § 1415(f)(1)(B); Ed. Code, § 56501.5, subd. (a) [requirement of resolution session before due process hearing]; 20 U.S.C. § 1415(e); Ed. Code, § 56500.3 [availability of mediation before due process hearing]; 20 U.S.C. § 1415(f)(1)(B)(ii); 34 C.F.R. § 300.510(d)(2)(2006); Cal. Code Regs., tit. 5, § 4650, subd. (a)(4); *Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1030 [administrative enforcement of settlements of due process disputes].)

2. Decision by settlement is authorized by California administrative law. (Gov. Code, § 11415.60; *Rich Vision Centers, Inc. v. Board of Medical Examiners* (1983) 144 Cal.App.3d 110.) Government Code section 11415.60 does not apply to special education due process disputes (Cal. Code Regs., tit. 5, § 3089), but the State Board of Education has adopted a similar regulation. Section 3087 of title 5 of the California Code of Regulations provides:

Notwithstanding Government Code section 11415.60 of the Administrative Procedure Act, a decision by settlement may be issued on terms the parties determine are appropriate so long as the agreed-upon terms are not contrary to the law.

3. Based on Factual Finding 3 and Legal Conclusion 2, the parties have settled their dispute on terms they have determined are appropriate.

4. Based on Factual Finding 5 and Legal Conclusion 2, the Stipulated Decision does not contain any agreed-upon term that is contrary to the law.

STIPULATED ORDER

The parties stipulate that Oxnard School District shall provide to Student the following related and compensatory education services:

1. Fund an assessment by Lindamood-Bell Learning Processes in Santa Barbara within one week of this Decision, or as soon thereafter as Lindamood-Bell's Santa Barbara office will schedule an assessment.

2. Upon receipt of the Lindamood-Bell assessment, fund provision of Lindamood-Bell services that are recommended by Lindamood-Bell for a period of two years. District will provide any appropriate venue or other supports for Lindamood-Bell to implement and provide its recommended services, including but not limited to any physical requirements, such as a location with the provision of any online services in classroom or on campus. District will fund any re-evaluations that are suggested or required by Lindamood- Bell. The Lindamood-Bell services will be provided during the regular school day and will be coordinated with Student's teacher.

3. Student will be placed in a mild-moderate special day class at Oxnard School District's Haydoc Academy of Arts and Sciences that includes, but is not limited to, the following:

- a. 30 minutes per week of individual speech services until the end of Student's eighth grade year;

- b. 60 minutes per week of group speech services until the end of Student's eighth grade year;
- c. No fewer than 12 social skills sessions provided for one hour on a weekly basis, with the option of continuing if recommended by the supervising counselor; and
- d. Services by a Language and Academic Development ("LAD") credentialed teacher, as needed, to support the special day class teacher to provide writing instruction.

4. If Lindamood-Bell recommends continued services during summer, District shall provide these services for the 2017 and 2018 extended school year. If the Lindamood- Bell program is offered at the Ventura location, then District will provide round trip transportation. If the Lindamood-Bell program is not offered at the Ventura location, District will provide the Lindamood-Bell services at a location where District offers Extended School Year. (Extended School Year may not be available at Student's home school.) If Lindamood-Bell does not suggest a summer program for Student, District will provide standard Extended School Year services in a District program. For any summer programs, District will provide transportation if the location of service is more than a fifteen-minute walk from Parent's home.

5. District is a kindergarten through eighth grade school district and Student will be enrolled in District through Summer 2018. Thereafter, if any Lindamood-Bell services required under by this decision remain, such services will be provided by District in coordination with the High School District and Parent.

6. If Parent moves more than a fifteen-minute walk from Haydoc Academy of Arts and Sciences, but remains within District, District will provide Student with transportation. If Parent moves out of District in the next two years, the District will

coordinate providing any remaining Lindamood-Bell services with the Parent and Student's new school district as follows: (1) during school, if an arrangement can be reached with the new school district, or (2) after school, if no arrangements are able to be made with the new school district within sixty days of Student's enrollment.

7. Student withdraws and dismisses all other claims.

PREVAILING PARTY

Education Code section 56507, subdivision (d), requires that this Decision indicate the extent to which each party prevailed on each issue heard and decided in this due process matter. Here, the parties stipulated that Student is the prevailing party on Issues 1, 2, 3, and 4.

RIGHT TO APPEAL THIS DECISION

This was a final administrative Decision, and all parties are bound by it. Pursuant to Education Code section 56506, subdivision (k), any party may appeal this Decision to a court of competent jurisdiction within ninety (90) days of receipt.

CLIFFORD H. WOOSLEY

Administrative Law Judge

Office of Administrative Hearings