

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012110220

ORDER FOLLOWING PRE-HEARING
CONFERENCE

On January 23, 2013, Administrative Law Judge (ALJ) Adrienne L. Krikorian, Office of Administrative Hearings (OAH), held a telephonic prehearing conference (PHC). Student's Father appeared on Student's behalf and was assisted by a Spanish language interpreter. Attorney Donald Erwin, appeared on District's behalf. 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 take place on February 5, 6, 7 and 12, 2013 and continuing day to day, Monday through Thursday as needed at the discretion of the ALJ, at the Office of Administrative Hearings, 15350 Sherman Way, Suite 300, Van Nuys, California 91406. The hearing shall begin at 9:30 a.m. on all hearing days unless otherwise ordered.

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. Issue. The only issue at the due process hearing is:

Did District deny Student a Free Appropriate Public Education (FAPE) in his June 15, 2012 individualized education program (IEP) by offering Student placement at Salvin Special Education Center?

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, but shall place the letter "S" or "D" in front of the exhibit to designate if it is a Student or District exhibit (for example, "S-5, S-6, or D-1, D-2.) Each exhibit shall be internally paginated by exhibit, or all of a party's exhibits shall be Bates-stamped. Each exhibit binder shall contain a detailed table of contents. At the hearing, each party shall supply an exhibit binder containing its

exhibits for use by the ALJ, and a second exhibit binder for use by witnesses. The parties shall not serve exhibits on OAH prior to the hearing. The parties shall meet and confer before the hearing in an attempt to consolidate exhibits and avoid duplicates.

Parents did not file a PHC statement or specifically identify potential exhibits at the PHC. Parents are ordered to meet and confer with District's counsel regarding exhibits, and to identify and produce to District any exhibits not listed in District's PHC statement that they intend to offer into evidence. Both parties shall exchange exhibits at least five business days before the first day of hearing. (Ed. Code, § 56505, subd. (e)(7).)

Except for good cause shown, or unless used solely for rebuttal or impeachment, any exhibit not included in the exhibit lists and not previously exchanged shall not be admitted into evidence at the hearing unless it is supported by written declaration under penalty of perjury, and the ALJ rules that it is admissible.

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.

Parents did not file a PHC statement or identify potential witnesses at the PHC. Parents are ordered to meet and confer with District's counsel regarding witnesses, and to identify to District the names of witnesses they intend to call at hearing, including their general area of testimony, not later than five days before the hearing. If Parents intend to call any of the witnesses listed on District's witness list, they shall so notify District not later than five days before the hearing.

The parties shall meet and confer regarding scheduling of the witnesses to insure that a witness is available at all times. 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.

Except solely for rebuttal or impeachment purposes, neither party shall be permitted to call any witnesses not disclosed in the party's prehearing conference statement or to the other party at least five business days prior to the hearing except for good cause shown, supported by written declaration under penalty of perjury, and at the discretion of the ALJ. (Ed. Code, § 56505, subd. (e)(7).)

The ALJ has discretion to limit the number of witnesses who testify and the time allowed for witnesses' testimony.

5. Scope of Witness Examination. Student shall present his case first. After the first direct and cross-examinations of each witness, each party shall be limited in examining the witness to only those matters raised in the immediately preceding examination. Witnesses designated by both parties will only be called to testify once and both parties shall examine the witness at the time the witness is called.

6. Telephonic Testimony. Neither party anticipates telephonic testimony.

7. Motions. District's counsel informed the ALJ that the parties had considered, but had not yet filed, a stipulation to change the location of the hearing to the OAH general jurisdiction office in Los Angeles. Father advised the ALJ during the PHC that transportation to Van Nuys was not a hardship for him. Accordingly, in the absence of a showing of good cause for a change of location, the matter shall be heard at the site as set forth in Paragraph 1, above.

Any motion filed after this date shall be supported by a declaration under penalty of perjury establishing good cause as to why the motion was not made prior to or during the prehearing conference of January 23, 2013.

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

9. 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.

10. Compensatory Education/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.

11. Special Needs and Accommodations. A Spanish language interpreter is required.

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 5:00 P.M. 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. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

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

IT IS SO ORDERED.

Dated: January 23, 2013

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings