

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

COMPTON UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012110389

PREHEARING CONFERENCE ORDER

On February 13, 2013, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Elsa H. Jones, Office of Administrative Hearings (OAH). Craig Liu, Attorney at Law, and Vickie Gillette, Attorney at Law, both of the Law Offices of LIU & Naime, appeared on behalf of Parent and Student (collectively, Student). There was no appearance on behalf of Compton Unified School District (District). District is represented in this matter by Daniel L. Gonzalez, Attorney at Law, of Littler Mendelson. When the ALJ telephoned Mr. Gonzalez to convene the PHC, Mr. Gonzalez advised that he had another commitment, that nobody else from his firm was available to appear at the PHC, and that he was aware that the PHC would proceed in his absence. The PHC was recorded.

Based on discussion with counsel for Student, the ALJ issues the following Order:

1. Hearing Dates, Times, and Location. The hearing shall take place on **February 19, 20, and 21, 2013**, and continuing thereafter day to day Monday through Thursday as needed, at the discretion of the ALJ. In this regard, the time estimates of the parties in their PHC statements reflect that additional hearing days may be required. Consequently, the ALJ may, in the ALJ's discretion, consider calendaring additional days for hearing.

Unless otherwise ordered, the first day of hearing shall commence at 1:30 p.m., and all other hearing days shall commence at 9:30 a.m. The hearing shall take place at the District offices, located at **2300 Caldwell Avenue, Compton CA 90220**.

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 has not been properly notified of the hearing date or properly subpoenaed, as applicable.

2. Issues and Proposed Resolutions. The issues to be decided at the due process hearing are:

A. Whether District denied Student a free appropriate public

education (FAPE) during the 2012-2013 school year by:

(1) Failing to provide services comparable to those in Student's April 20, 2012, Individualized Education Program (IEP) from the Los Angeles Unified School District during the first thirty (30) days of Student's enrollment in the District;

(2) Failing to adopt Student's April 20, 2012, IEP from the Los Angeles Unified School District, or by failing to adopt and implement a new IEP after the initial thirty (30) days of Student's enrollment in the District; and

(3) Failing to take reasonable steps to promptly obtain Student's records relating to the provision of special education and related services to Student from the previous school at which Student was enrolled in the Los Angeles Unified School District.

B. Whether District denied Student a FAPE during the 2012-2013 school year, by failing to offer appropriate placement and related services for Student, including behavior intervention implementation, behavior intervention development, a one-to-one aide, and counseling services.

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 whether it is a Student or District exhibit (for example, "S-5, S-6," or "D-1, D-2"). It is preferred that each exhibit be internally paginated, or all of a party's exhibits be consecutively paginated by Bates stamp or similar method. Each exhibit binder shall contain a detailed table of contents. Counsel for Student represented that the parties have served their evidence binders on each other in compliance with Education Code section 56505, subdivision (e)(7). 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 may not serve exhibits on OAH prior to the hearing. In the event of duplicate exhibits, the most legible version will be used.

Unless used solely for rebuttal or impeachment, any exhibit not included in a party's exhibit list and not previously exchanged shall not be admitted into evidence at the hearing at the request of that party, except for good cause shown, and at the discretion of the ALJ, and unless the ALJ rules that it is otherwise admissible evidence.

4. Witnesses. Each party shall service their final witness lists upon each other, and file them with OAH, in accordance with Education Code section 56505, subdivision (e)(7). 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. Neither party shall be permitted to call

any witnesses not disclosed in the party's final witness list, except for good cause shown, and at the discretion of the ALJ.

The parties are encouraged to review and curtail their witness lists prior to the hearing, bearing in mind that evidence will be excluded if it is repetitive, cumulative, or insufficiently probative to justify the time it would take to hear. The ALJ has discretion to limit the number of witnesses and to set the length of time allowed for testimony. Parties should anticipate that witnesses who are listed on both parties' witness lists will only be permitted to be called to testify once.

The parties shall attempt to reach agreement on a witness list for the first day of hearing. During the hearing, the parties shall keep the ALJ and each other apprised of the witness schedule.

5. Scope of Witness Examination. After the first direct and cross-examinations, each party shall be limited in examining the witness to only those matters raised in the immediately preceding examination, at the discretion of the ALJ.

6. Motions. No pretrial motions are pending or contemplated. Any motion filed 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 PHC of February 13, 2013.

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

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 placed on the vibrate setting during the hearing unless permission to the contrary is obtained from the ALJ. There shall be no texting or tweeting during the hearing unless permission to the contrary is obtained from the ALJ.

9. Compensatory Education/Reimbursement. Any party seeking reimbursement of expenditures shall present admissible evidence of these expenditures, or a stipulation as to the amount of these 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. Neither party anticipates the need for special accommodation for any witness or party, or for interpreter services.

11. Settlement. The parties are encouraged to continue working together to reach a settlement 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 OAH AT THE FAXINATION LINE at (916) 376-6319.

Hearing dates 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.

12. Failure to comply with this Order and with the provisions of Evidence Code section 56505, subdivision (e)(7) may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

Dated: February 13, 2013

/s/

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ELSA H. JONES  
Administrative Law Judge  
Office of Administrative Hearings