

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. 2013090315

ORDER FOLLOWING PRE-HEARING
CONFERENCE AND GRANTING
JOINT REQUEST FOR
CONTINUANCE

On October 28, 2013, Administrative Law Judge (ALJ) Adrienne L. Krikorian, Office of Administrative Hearings (OAH) held a telephonic prehearing conference (PHC). Mother appeared on Student's behalf. Spanish language interpreter Miguel Rojas assisted Mother. Attorney Patrick Balucan appeared on behalf of Los Angeles Unified School District (District.) The PHC was recorded.

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

1. Hearing Dates, Times, and Location. The hearing is continued on joint motion of the parties and shall take place on November 12 and 13, 2013, and continuing day to day Monday through Thursday as determined by the hearing administrative law judge. **The first day of hearing will begin at 1:30 p.m. Please note the change in time.** All other days will begin at 9:30 a.m. unless otherwise ordered.

The hearing will take place at OAH's Van Nuys office located at 15350 Sherman Way, Suite 300, Van Nuys, California 91406.

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 only issue at the due process hearing is:

Did District deny Student a free appropriate public education (FAPE) in his January 18, 2013 individualized education program (IEP) and during the 2012-2013 and 2013-2014 school years by failing to offer Student home-to-school transportation services?

3. Exhibits. Exhibits shall be pre-marked and placed in three-ring exhibit binders prior to the hearing. Exhibits shall be identified with a numbered tab, and shall be

internally paginated by exhibit, or all of the exhibits shall be Bates-stamped. Each exhibit binder shall contain a detailed table of contents.

Mother did not file a PHC statement or identify proposed exhibits before the PHC. However, she represented on the record during the PHC that on Friday October 25, 2013, she mailed to District, and filed with OAH, documents she intends to use at hearing. Those documents were not received by District or OAH before the PHC.

Mother identified two documents she intends to introduce: 1) a 2010 report from the Regional Center regarding Student's diagnosis of autism; and 2) a report from a psychologist referring to home services Student receives related to his autism. If District does not receive those documents from Mother by Thursday, October 31, 2013, District's counsel shall notify Mother. Both parties shall exchange exhibits at least five business days before the first day of hearing. (Ed. Code, § 56505, subd. (e)(7).)

At the hearing, the parties shall supply a joint exhibit binder containing exhibits for use by the ALJ, and a second exhibit binder for use by witnesses. The parties shall meet and confer before the hearing in an attempt to finalize the joint exhibit notebook. The parties shall not serve exhibits on OAH prior to the hearing.

The parties shall exchange resumes or curriculum vitae for each witness who is expected to testify as to their professional credentials. Notwithstanding the requirements of Education Code section 56505, subd. (e)(7), the parties shall exchange resumes not later than 24 hours before the witness is scheduled to testify.

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. Mother did not file a PHC statement in which she identified witnesses. However, during the PHC, Mother stated that she only intends to call herself as a witness during her case. If Mother intends to call any other previously unidentified witness, or any person on District's list that is not listed below, Mother is ordered to meet and confer with District's counsel at least five business days before the first day to identify to District any witnesses she intends to call at hearing, including their general area of testimony, to the extent that witness is not listed in District's PHC statement.

District intends to call the following witnesses in its defense: Joyce Miles, Kim Morris, Cara Zollinger, Naya Moreno Valencia, and Patricia Jacobs.

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.

Except solely for rebuttal or impeachment purposes, neither party shall be permitted to call any witnesses not disclosed during prehearing conference 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. 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.

6. Order of Presentation of Evidence. Mother shall present Student's case first.

7. Motions. None.

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. Hearing Closed To the Public.

13. 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.

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

IT IS SO ORDERED.

Dated: October 29, 2013

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings