

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARAMOUNT UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013070575

PREHEARING CONFERENCE ORDER

On November 4, 2013, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Elsa H. Jones, Office of Administrative Hearings (OAH). Angela Gordon, Attorney at Law, of Fagen Friedman & Fulfroft, LLP, appeared on behalf of Paramount Unified School District (District). Kim McClain, Special Education Advocate, appeared on behalf of Student and Parent (collectively, Student). The PHC was recorded.

Based on discussion with the parties, the ALJ issues the following Order:

1. Hearing Dates, Times, and Location. The hearing shall take place on November 12-14, 2013, and November 18, 2013, and shall continue day to day, Monday through Thursday as needed, at the discretion of the ALJ. Unless otherwise ordered, the hearing shall begin each day at 9:30 a.m., except that on November 18, 2013, the hearing shall begin at 1:30 p.m.

The hearing shall take place at the District's offices located at 15110 California Avenue, Paramount, CA 90723. 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 was not properly notified of the hearing dates or properly subpoenaed, as applicable.

2. Issues and Proposed Resolutions. The issues at the due process hearing are listed below.

A. Whether the District's triennial psychoeducational assessment of Student was appropriate such that Student is not entitled to an independent educational assessment (IEE) at public expense;

B. Whether the District's triennial speech and language (LAS) assessment of Student was appropriate such that Student is not entitled to an IEE at public expense; and

C. Whether the District's triennial occupational therapy (OT) assessment of Student was appropriate such that Student is not entitled to an IEE at public expense.

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. 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. The parties stipulated that they would serve their evidence binders on each other by no later than November 5, 2013, at noon. 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 admissible.

4. Witnesses. The parties have stipulated that they will serve their final witness lists on each other by no later than noon on November 5, 2013. Each party is responsible for procuring the attendance at hearing of its own witnesses. District shall make the following witnesses reasonably available: Kimberly Cole, Grace Torres, Ashley Boyer, Timothy Day, Sharon Patterson, and Karen Shelton. 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 that party's final witness list except for good cause shown, and at the discretion of the ALJ.

The parties shall be prepared during the hearing day to discuss the witnesses to be presented the next day and the testimony of each witness is expected to take. Parties should anticipate that, except for rebuttal, witnesses who are listed on both parties' witness lists will only be permitted to be called to testify once. The ALJ has discretion to limit the number of witnesses who testify and the time allowed for witnesses' testimony.

The parties are notified that evidence will be excluded if, without limitation, it is repetitive, cumulative, or insufficiently probative to justify the time it would take to hear.

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. Telephonic Testimony. District's motion to allow Shannon Patterson to testify telephonically is granted. District shall provide Ms. Patterson with a complete set of exhibit binders from all parties, containing all of each party's exhibits, prior to the hearing; and shall ensure that the hearing room has sound equipment that allows everyone in the room to hear

the witness, and that allows the witness to hear objections and rulings. Ms. Patterson must testify over a land-line, and she must be alone in a quiet room during her testimony.

7. Motions. During the PHC, Student moved for District to produce Kattie Cotter, Alfredo Mayen, Juanita Rivas, and Megan Haesche, without need for subpoena. The motion is denied, without prejudice to renewing the motion at hearing. No other pretrial motions are pending or contemplated. Any other motion filed after November 4, 2013, 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 November 4, 2013, PHC.

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

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

10. Special Needs and Accommodations. At present, 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 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 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.

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.

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

IT IS SO ORDERED.

Dated: November 6, 2013

/s/

ELSA H. JONES

Administrative Law Judge

Office of Administrative Hearings