

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014030356

ORDER REGARDING DISTRICT'S
MOTION TO COMPEL REVISION OF
STUDENT'S EVIDENCE BINDER

This matter was set to begin a due process hearing on May 6, 2014. However, on May 1, 2014, the Office of Administrative Hearings granted Student's motion to amend his complaint. The parties were to exchange evidence binders no later than close of business on April 29, 2014, in accordance with Education Code section 56505, subdivision (e)(7), which requires evidence to be exchanged by the parties five business days prior to the starting date of the hearing.

On April 29, 2014, OAH received a motion from the Oakland Unified School District's (District's) counsel asking that Student be ordered to revise and provide a new evidence binder, because, District claimed, Student's evidence binder was "a mess." One of the primary purported problems with Student's evidence binder delivered to District's counsel was that some exhibits under numbered tabs in the binder were not the exhibits described in the index of the binder. Further, bates-stamped numbers on pages in the evidence binder did not comport with the page numbers described in the index.

This hearing is now continued to a new date because an amended complaint has been filed, so it is anticipated that the parties will be exchanging new evidence binders for a new hearing date, since the amended complaint contains some different issues than the original complaint. Therefore, OAH declines to rule upon District's motion because it is moot.

Parties are instructed to ensure that the evidence binders they provide to each other, and bring to the hearing for use by themselves, the witnesses and the Administrative Law Judge are all identically organized. If the exhibit binders parties bring to the hearing are disorganized and not identical and in order, valuable time will be taken away from the hearing, and parties face a risk of sanctions.

In preparing an evidence binder, the parties should consider the following recommendations. First, separate documents should each be placed behind a separate numbered index tab in the binder, and the exhibit numbers in the index, as well as the bates-

stamped numbers on the pages should comport with the exhibit and page numbers noted in the index. In addition, parties are encouraged to organize exhibits in an order that is conducive to easy use by the parties, witnesses, and the ALJ. For example, exhibits may be placed in chronological date order, and/or groups of similar documents, such as IEP's may be placed together in the binder, although each must be separated from another by different numbered tabs.

In the case of emails, should the parties plan on introducing them as exhibits, the parties should attempt to separate emails dealing with a specific subject into separate groups, with each group separated from another by a tabbed numbered index page. Parties are strongly discouraged from placing all emails under a single index tab.

DATE: May 9, 2014

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings