

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

SAN DIEGUITO UNION HIGH SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2014070451

ORDER FOLLOWING PREHEARING
CONFERENCE

On July 21, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Susan Ruff, Office of Administrative Hearings. Justin Shinnefield, Attorney at Law, appeared on behalf of the San Dieguito Union High School District (District). There was no appearance by or on behalf of Student.¹ 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 July 29, 2014, shall continue (if necessary) on July 30 and 31, 2014, and shall continue day to day thereafter, Monday through Thursday, as needed at the discretion of the ALJ. The hearing shall begin at 9:30 a.m. on the first day of the hearing and at 9:00 a.m. on all other days of hearing, unless otherwise ordered.

The hearing shall take place at:

San Dieguito Union High School District
710 Encinitas Blvd., Suite 105
Encinitas, CA 92024-3357

¹ Student's parents did not file a PHC statement, nor have they made any contact with OAH regarding this case. On July 17, 2014, OAH staff left a telephone voicemail message for Student's parents asking them to contact OAH regarding the status of their PHC statement. There was no response to that message from Student's parents. On July 21, 2014, at the time set for the telephonic PHC, ALJ Ruff attempted to reach Student's parents at the telephone number in the case file. ALJ Ruff left a voice mail message asking them to contact Sacramento OAH immediately with a telephone number where they could be reached. There was no response to that message during the PHC.

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. Did the proposed individualized education program (IEP) dated January 21, March 21, and April 18, 2014, offer Student a free appropriate public education (FAPE) in the least restrictive environment?

3. Exhibits. District’s exhibits shall be pre-marked and placed in three-ring exhibit binders prior to the hearing. District shall use numbers to designate its exhibits. Each District exhibit shall be internally paginated by exhibit, or the exhibits shall be consecutively paginated, for example by Bates-stamping. Each exhibit binder shall contain a detailed table of contents. Student’s parents shall bring any documents they wish to place into evidence with them to the first day of hearing to be marked by the ALJ. No exhibits shall be served on OAH by either party prior to the hearing.

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. 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.

5. Telephonic Testimony. Whether a witness may appear by telephone is a matter within the discretion of the ALJ. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Any party seeking to present a witness by telephone shall move in advance for leave to do so, unless the opposing party has stipulated that the witness may appear by telephone. The proponent of the witness shall provide the proposed witness 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 the witness to hear objections and rulings. No witness will be heard by telephone unless all these requirements have been fulfilled.

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

7. 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.

8. Special Needs and Accommodations. At present, there is no indication of any need for special accommodation for any witness or party, or for translation services. District

shall make certain that the hearing room meets the accessibility requirements of the Americans with Disabilities Act.

9. Hearing Closed To the Public. The hearing will be closed to the public unless Student's parents request to have it opened.

10. 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 4:00 P.M. ON 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: 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.

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

IT IS SO ORDERED.

DATE: July 21, 2014

/s/
SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings