

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

SANTA ROSA CITY SCHOOLS,

v.

STUDENT.

OAH Case No. 2014040994

**ORDER FOLLOWING FURTHER
PREHEARING CONFERENCE**

On September 5, 2014, a further telephonic prehearing conference was held before Administrative Law Judge Adeniyi A. Ayoade, Office of Administrative Hearings. Carl D. Corbin, Attorney at Law, appeared on behalf of the Santa Rosa Unified School District. Student's Mother (holder of educational right/Parent) appeared on behalf of Student. The prehearing conference was recorded.¹ Based on discussion with the parties, the ALJ issues the following order:²

1. Issues and Proposed Resolutions. Pursuant to the parties' agreement during the prehearing conference, the remaining issue at the due process hearing and the requested proposed remedies are as follows:³

- A. *Issue:* Is Santa Rosa entitled to complete its triennial assessment of Student pursuant to its March 19, 2014 assessment plan without the consent of Student or Parent?

¹ The September 5, 2014 further prehearing conference was scheduled by the undersigned on September 2, 2014 following the August 29, 2014 prehearing conference, which Parent was unable to attend.

² The Order "Order Following Prehearing Conference" dated August 29, 2014 shall remain in effect, except as supplemented, modified, clarified by this order.

³ The issue at the due process hearing is as alleged in Santa Rosa's due process complaint as clarified at the PHC. Any issue(s) that is not listed and/or permitted by this order shall be included only with an amendment to a due process complaint. The amendment shall comply with California Education Code section 56502, subdivision (e). The filing of an amended complaint will restart the applicable timelines for a due process hearing. (20 U.S.C. § 1415(c)(2)(E)(ii).)

- B. *Proposed Remedy:* As proposed resolution, Santa Rosa requests an order from OAH finding that Santa Rosa is entitled to assess Student pursuant to its March 19, 2014 assessment plan without Student or Parent's consent.

2. Exhibits. Pursuant to the parties' agreement, both parties shall use Santa Rosa's exhibit binder during the due process hearing.⁴ In addition, Student is granted leave to include her Assignment of Educational Rights document dated July 15, 2012 in the exhibit list. Student shall serve a copy of the Assignment of Educational Right document, dated July 15, 2012, on Mr. Corbin, on or before 5:00 p.m., on September 5, 2014.

Except for good cause shown, or unless used solely for rebuttal or impeachment, any exhibit not included in Santa Rosa's the exhibit list, and not previously exchanged (except as allowed by this order) shall not be admitted into evidence at the hearing, unless good cause is shown as to why it was not previously exchanged. The parties shall be prepared to make such an offer of proof. The ALJ shall determine whether an exhibit is to be admitted into evidence. Only exhibits relevant to the issues previously stated in this order shall be admitted, unless used for impeachment purposes. The fact that an exhibit is placed in an exhibit binder does not guarantee its admission.

3. Motions. Other than as discussed herein below, no pretrial motions are pending. In addition, any motion filed after this date 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 prehearing conference of September 5, 2014. At the September 5, 2014, the following motions/request were discussed and determined as follows:

- a. Order Dismissing Motion for Delivery of Subpoenas: At the September 5, 2014 prehearing conference, Parent withdrew this motion and this motion is dismissed.
- b. Order Dismissing Motion to Deny Santa Rosa [Request] to Preclude Student from calling Witnesses or Presenting Evidence: At the September 5, 2014 prehearing conference, Parent withdrew this motion and this motion is dismissed.
- c. Order Dismissing Motion for Assessment Protocols : At the September 5, 2014 prehearing conference, Parent withdrew this motion and this motion is dismissed.
- d. Order Denying Motion for Stay Put: OAH received this motion from Santa Rosa on August 28, 2014, and Student filed her opposition to the motion on

⁴ Both parties agreed that that all the exhibits each party would need in order to present their respective cases have been included in Santa Rosa's exhibit list/binder, and that the exhibits have been exchanged between the parties.

the same day. At the September 5, 2014 prehearing conference, the ALJ heard and evaluated arguments from both parties on this motion. Based on the parties' respective positions, the dispute between the parties centers around the question of whether the Sierra School, a nonpublic school, offered by Santa Rosa to Student is a "comparable" educational placement for Student, as ACE, also a nonpublic school, that Student was placed in pursuant to her last agreed-upon and implemented IEP is no longer available? At the present time, OAH does not have enough information needed to evaluate the question and make a determination. Accordingly, Santa Rosa's motion for stay put is denied at this time.

4. Request for Special Needs and Accommodations. Parent submitted a request for accommodations during the hearing. OAH interpreted the request as a request for accommodation under the Americans with Disabilities Act ("ADA") 42 U.S.C. § 12101 et seq.). OAH's ADA Coordinator reviewed the request and determined **Parent is in need of an office-style chair for use during the hearing.** As the hearing is to be held at Santa Rosa's location, OAH's ADA Coordinator makes the following determination:

- a. Santa Rosa shall provide an office-style chair for use by Parent for the duration of the hearing. Santa Rosa may not incur any additional costs for providing the chair.
- b. The due process hearing shall not last more than three hours in the morning and three hours in the afternoon each day, with suitable restroom breaks, and a lunch break in between each set of three hours.

5. Hearing Open To the Public. As requested by Student' the hearing shall be opened to the public.

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

IT IS SO ORDERED.

DATE: September 5, 2014

/s/

ADENIYI AYOADE

Administrative Law Judge

Office of Administrative Hearings