

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN RAFAEL CITY SCHOOLS.

OAH CASE NO. 2014080942

ORDER GRANTING IN PART
MOTION TO EXAMINE WITNESSES
AT HEARING BY TELEPHONE

On August 22, 2014, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH), naming San Rafael City Schools (San Rafael) as respondent.

On October 2, 2014, OAH continued the due process hearing in this matter to December 16, 2014. The hearing is scheduled to take place at San Rafael City Schools located at 310 Nova Albion Way, San Rafael, California 94903.

On October 22, 2014, Student filed a Motion to Examine Witnesses at Hearing by Telephone, seeking permission to have several witnesses testify by telephone, including Dr. Laura Gilley, Dr. Sandra Whitehouse, Dr. Richard Melney, Dr. Erin Heath, psychologist, Mark Hutchinson, and other “other members of Student’s Treatment Team at Heritage School.” Student argues these witnesses are located out of state or outside the county in which the hearing will be held or have commitments for the care and treatment of other patients, which necessitates that these witnesses testify at the hearing by telephone. San Rafael filed no opposition to the Motion.

Whether a witness may appear by telephone is a matter within the discretion of the Administrative Law Judge. The hearing officer may conduct all or part of a hearing by telephone “if each participant in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe exhibits.” (Cal. Code Regs., tit. 5, § 3082, subd. (g).)

Student’s motion is granted as to Dr. Laura Gilley, Dr. Sandra Whitehouse, Dr. Richard Melney, Dr. Erin Heath, and Mark Hutchinson in the event those persons are called as witnesses and are permitted to testify by the ALJ presiding over the hearing. Each witness shall testify on a land-line telephone while alone in a private room. San Rafael shall ensure that the hearing room has sound equipment that allows everyone in the hearing room to hear the witness, and the witness to hear objections and rulings. Prior to the hearing, Student shall provide each witness with a complete set of duplicate exhibit binders from each party which

shall contain all of each party's exhibits and instruct the witness not to remove any documents from the exhibit binders.

To the extent Student seeks to have "other members of Student's Treatment Team at Heritage School" testify by telephone, the motion is denied without prejudice because Student has failed to specify the witnesses by name.

Any party seeking to have additional witnesses testify by telephone shall move in advance of the hearing for leave to do so, unless the opposing party has stipulated that the witness may appear by telephone.

IT IS SO ORDERED.

DATE: November 04, 2014

/s/

LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings