

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

GROSSMONT UNION HIGH SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015020647

ORDER FOLLOWING PREHEARING
CONFERENCE

On March 6, 2015, a telephonic prehearing conference was held before Administrative Law Judge Susan Ruff, Office of Administrative Hearings. Sarah Sutherland, Attorney at Law, appeared on behalf of the Grossmont Union High School District. There was no appearance by or on behalf of Student.¹ The PHC was recorded.

Based on discussion during the PHC, the ALJ issues the following order:

1. Hearing Date, Time, and Location. The hearing shall take place on March 11, 2015, starting at 9:30 a.m., and continuing day to day thereafter, Monday through Thursday, as needed at the discretion of the ALJ.

The hearing shall take place at:

**Grossmont Union High School District
1100 Murray Drive
El Cajon, CA 92020**

¹ At the time of telephonic PHC, ALJ Ruff telephoned Student's parent twice and left messages on her voice mail, explaining that the PHC was going forward and asking her to contact OAH immediately with a telephone number where she could be reached.

The day before the PHC, OAH staff had spoken with Student's parent by telephone to ask why she had not filed a prehearing conference statement. The staff member informed her of the time and date of the telephonic PHC. The parent stated she had a scheduling conflict because of a court appearance for her child. The OAH staff member explained that she needed to provide information regarding that conflict to OAH in writing. As of the time of the telephonic PHC, nothing had been received by OAH from Student's parent regarding that scheduling conflict.

The school district shall provide a facility for the hearing that fully complies with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and all laws governing accessibility of government facilities to persons with disabilities.

The parties shall immediately notify all potential witnesses of the hearing date 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. May Grossmont assess Student pursuant to the assessment plan which was offered to Student’s parent on or about October 30, 2014, November 17, 2014, December 18, 2014, and January 10, 2015?

3. Exhibits. Grossmont’s exhibits shall be pre-marked and placed in a three-ring exhibit binder prior to the hearing. Grossmont shall use numbers to identify exhibits. Each exhibit shall be internally paginated by exhibit, or all of the exhibits shall be consecutively paginated, for example by Bates-stamping. The exhibit binder shall contain a detailed table of contents. No exhibits shall be filed with OAH prior to the hearing.

Student’s parent shall bring any of her exhibits to the first day of hearing to be marked with an exhibit tag by the ALJ.

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 make a written request 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 exhibits from both parties 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. Motions. No pretrial motions are pending or contemplated at this time.

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

8. 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. In consideration of individuals with allergies, counsel, parties and witnesses shall avoid the use of heavy perfumes or aromatic oils in the hearing room. Cellular phones, pagers, 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.

There shall be no audio or video recording or photography of any kind in the hearing room without the express permission of the ALJ hearing the case.

9. Special Needs and Accommodations. At present, there is no anticipated need for special accommodation for any witness or party, or for translation services.

A party or participant to this case, such as a witness, requiring reasonable accommodation to participate in the hearing may contact the assigned case manager at (916) 263-0880, or the OAH ADA Coordinator at OAHADA@dgs.ca.gov or (916) 263-0880 as soon as the need is made known. Additional information concerning requests for reasonable accommodation is available on OAH's website at:

<http://www.dgs.ca.gov/oah/Home/Accommodations.aspx>

10. Hearing Closed To the Public. Unless otherwise requested by the parent, the hearing will be closed to the public.

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 also 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. 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 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.

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

IT IS SO ORDERED.

DATE: March 6, 2015

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings