

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CAMPBELL UNION HIGH SCHOOL DISTRICT AND SANTA CLARA
COUNTY OFFICE OF EDUCATION.
OAH CASE NUMBER 2021110008

ORDER FOLLOWING PREHEARING CONFERENCE FOR
HEARING BY VIDEOCONFERENCE

FEBRUARY 18, 2022

On February 18, 2022, Administrative Law Judge Laurie Gorsline, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Tony Tai Nguyen, Attorney at Law, appeared on behalf of Student. Eliza McArthur, Attorney at Law, appeared on behalf of Campbell Union High School District. Tracy Petznick Johnson, Attorney at Law, appeared on behalf of Santa Clara County

Office of Education. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

DUE PROCESS HEARING

The hearing will take place on March 8 through 10, 2022 and continue day to day at the discretion of the ALJ. The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, unless otherwise ordered. The parties anticipate it will take four to six days to complete the hearing. Additional hearing dates will be discussed with the ALJ during the hearing.

HEARING LOCATION

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Based on state and federal guidance to address safety procedures due to the novel coronavirus, COVID-19, OAH will conduct the due process hearing by videoconference using the Microsoft Teams application. Unless otherwise ordered, participants are required to appear by videoconference using a webcam and Microsoft Teams.

The parties shall immediately notify all potential witnesses of the hearing dates and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena>.

ISSUES AND PROPOSED RESOLUTIONS

The issues at the due process hearing, and proposed resolutions, as alleged in the complaint and clarified by the parties and the ALJ during the PHC are:

ISSUES

1. Did Campbell Union and Santa Clara County deny Student a free appropriate public education, or FAPE, between October 29, 2019 and October 29, 2021 by:
 - a. Failing to offer an appropriate placement, specifically in the individualized education program, or IEP, dated:
 - i. October 29, 2019?
 - ii. January 16, 2020?
 - iii. October 26, 2020?
 - iv. October 21, 2021?
 - b. Failing to offer appropriate goals in all areas of need for academics, speech and language, including alternative augmentative communication, fine motor, and behavior, specifically:
 - i. In the October 29, 2019 IEP:
 - a) Failing to offer any academic reading goals in the areas of decoding (including high frequency words and sight words), fluency and comprehension?
 - b) Failing to offer academic writing goals in the areas of organization (order and sequence of writing multiple sentences), punctuation, syntax and paragraph writing?

- c) Failing to offer academic math goals in the areas of division, money word problems, math calculation, expansion of his ability to do addition and subtraction beyond two-digit addition and subtraction, writing numbers beyond forty, and telling time beyond the whole hour?
 - d) Failing to offer speech goals to address pragmatics, usage of an alternative augmentative communication device, receptive communication, and using longer and more complete sentences beyond two or three words?
 - e) Failing to offer any fine motor goals to address writing (legibility of writing, and writing beyond the number forty), and sensory processing?
 - f) Failing to offer behavior goals which addressed Student's specific behaviors, specifically aggression, self-injurious behavior, self-exposure and elopement?
- ii. In the October 26, 2020 IEP:
- a) Failing to offer any academic reading goals in the areas of decoding (including high frequency words and sight words), fluency and comprehension?
 - b) Failing to offer academic writing goals in the areas of organization (order and sequence of writing multiple sentences), punctuation, syntax and paragraph writing?

- c) Failing to offer academic math goals in the areas of division, word problems other than for money, math calculation, expansion of his ability to do addition and subtraction beyond two-digit addition and subtraction, writing numbers beyond forty, and telling time beyond the whole hour?
- d) Failing to offer speech goals to address pragmatics, usage of an alternative augmentative communication device, and receptive communication?
- e) Failing to offer any fine motor goals to address writing (legibility of writing, and writing beyond the number forty), and sensory processing?
- f) Failing to offer behavior goals which addressed Student's specific behaviors, specifically aggression, self-injurious behavior, self-exposure and elopement?

iii. In the October 21, 2021 IEP:

- a) Failing to offer any academic reading goals in the areas of decoding (including high frequency words and sight words), fluency and comprehension?
- b) Failing to offer academic writing goals in the areas of organization (order and sequence of writing multiple sentences), punctuation, syntax and paragraph writing?
- c) Failing to offer academic math goals in the areas of division, word problems other than for money, math calculation, expansion of his ability to do addition and

- subtraction beyond two-digit addition and subtraction, writing numbers beyond forty, and telling time beyond the whole hour?
- d) Failing to offer speech goals to address pragmatics, usage of an alternative augmentative communication device, and receptive communication?
- e) Failing to offer any fine motor goals to address writing (legibility of writing, and writing beyond the number forty), and sensory processing?
- f) Failing to offer behavior goals which addressed Student's specific behaviors, specifically aggression, self-injurious behavior, self-exposure and elopement?
- c. Except for the transition goal, failing to have measurable baselines for the goals developed at the October 21, 2021 IEP team meeting?
- d. Failing to cite to the supporting general curriculum and state standards for each of the goals in the IEP developed at the October 21, 2021 IEP team meeting?
- e. At the October 26, 2020 IEP team meeting, failing to provide progress reports on the goals developed at the October 29, 2019 annual IEP team meeting?
- f. Failing to offer appropriate services to allow Student to make meaningful progress in the areas of academics, speech and language, including alternative augmentative communication, fine motor, and behavior, specifically:
 - i. In the October 29, 2019 IEP:

- a) For academics, failing to offer a remediation program in reading, writing and math?
- b) For speech and language, failing to offer a sufficient amount of individual speech services?
- c) For speech and language, failing to offer training to Student to use the alternative augmentative communication device?
- d) In the area of fine motor, failing to offer a sufficient amount of occupational therapy services?
- e) In the area of fine motor, offering occupational therapy services delivered in a group instead of individually?
- f) In the area of behavior, failing to offer consultation with Parents?
- g) In the area of behavior, failing to offer monitoring of the behavior plan by the teacher?
- ii. In the January 16, 2020 IEP:
 - a) In the area of behavior, failing to offer Student two-to-one behavior support?
- iii. In the October 26, 2020 IEP:
 - a) In the area of academics, offering an insufficient amount of group specialized academic instruction?
 - b) In the area of academics, failing to offer a remediation program in reading, writing and math?
 - c) In the area of speech and language, failing to offer a sufficient amount of individual speech services?

- d) For speech and language, failing to offer training to Student to use the alternative augmentative communication device?
- e) In the area of fine motor, failing to offer a sufficient amount of occupational therapy services?
- f) In the area of fine motor, offering occupational therapy services delivered in a group instead of individually?
- g) In the area of behavior, failing to offer consultation with Parents?
- h) In the area of behavior, failing to offer monitoring of the behavior plan by the teacher?
- i) In the area of behavior, failing to offer Student two-to-one behavior support?
- j) In the area of behavior, failing to offer a sufficient amount of intensive individual support services?

iv. In the October 21, 2021 IEP:

- a) For academics, failing to offer a remediation program in reading, writing and math?
- b) For academics, failing to offer specialized academic instruction for the 2021-2022 extended school year?
- c) In the area of speech and language, failing to offer a sufficient amount of individual speech services?
- d) For speech and language, failing to offer training to Student to use the alternative augmentative communication device?

- e) For speech and language, failing to offer speech and language services for the 2021-2022 extended school year?
- f) In the area of fine motor, offering failing to offer a sufficient amount of occupational therapy services?
- g) In the area of fine motor, offering occupational therapy services delivered in a group instead of individually?
- h) In the area of behavior, failing to offer monitoring of the behavior plan by the teacher?
- i) In the area of behavior, failing to offer Student two-to-one behavior support?
- g. Failing to consider and discuss the continuum of placement and service options at the IEP team meetings on:
 - i. October 29, 2019, specifically failing to discuss:
 - a) The continuum of placement options?
 - b) The service options, specifically the methods of delivery for specialized academic instruction (i.e., if it could be delivered in other than a group setting), speech and language services, occupational therapy services, and behavior plan monitoring (i.e., who could monitor it)?
 - ii. October 26, 2020 specifically failing to discuss:
 - a) The continuum of placement options?
 - b) The service options, specifically the methods of delivery for specialized academic instruction (i.e., if it

- could be delivered in other than a group setting),
speech and language services, occupational therapy
services, and behavior plan monitoring (i.e., who could
monitor it)?
- iii. October 21, 2021, specifically failing to discuss:
 - a) The continuum of placement options?
 - b) The service options, specifically the methods of
delivery for specialized academic instruction (i.e., if it
could be delivered in other than a group setting),
speech and language services, occupational therapy
services, and behavior plan monitoring (i.e., who could
monitor it)?
- h. Failing to make a specific offer of placement at the IEP meetings
held on:
 - i. October 29, 2019, specifically, offering an unspecified Santa
Clara County program?
 - ii. October 26, 2020, specifically, offering an unspecified Santa
Clara County program?
 - iii. October 21, 2021 specifically, offering an unspecified Santa
Clara County program?
- i. Failing to offer an appropriate behavior intervention plan,
specifically:
 - i. In the October 2019 IEP?
 - ii. In the October 2020 IEP?
 - iii. In the October 2021 IEP?
- j. Failing to offer an appropriate post-secondary transition plan,

- i. In the October 26, 2020 IEP?
 - ii. In the October 21, 2021 IEP?
- k. Failing to offer an assessment plan to collect data for a non-public school placement after the October 26, 2020 IEP team meeting?
- l. Failing to assess in the areas of psychoeducation and behavior for the October 29, 2019 triennial review?
- m. Failing to implement 2020 extended school year services by not making a program available to Student either on-line or in-person?
- n. Failing to have a Campbell Union representative present at the October 29, 2019 IEP team meeting?
- o. Failing to have a general education teacher present at the IEP team meetings on:
 - i. October 29, 2019?
 - ii. January 16, 2020?
 - iii. October 26, 2020?
 - iv. October 21, 2021?
- p. Failing to provide prior written notice in response to Parents' requests for:
 - i. Placement at a non-public school made at the October 29, 2019 IEP team meeting at the January 16, 2020 IEP team meeting?
 - ii. Two-to-one behavior support made at the January 16, 2020 IEP team meeting?
 - iii. A private in-home applied behavior analysis service provider to support Student at school made at the October 26, 2020 IEP team meeting?

- iv. Grade level retention made by Parents at the beginning of the 2021 extended school year?

By February 28, 2022, a party must file a written objection and supporting argument regarding the basis of any objection that any issue stated in this Order does not reflect that party's understanding of the issues as clarified at the PHC or otherwise object to any issue in this Order.

PROPOSED RESOLUTIONS

The resolutions requested by Student include an order for an appropriate placement, possibly a non-public school placement, goals and services in the areas of academics, speech and language including alternative augmentative communication, fine motor, and behavior, an appropriate behavior intervention plan and post-transition plan, independent educational evaluations in the areas of psychoeducation and behavior, grade level retention (requiring Student to repeat tenth grade), and compensatory education.

Santa Clara County filed its response to Student's complaint on November 8, 2021. (*M.C. v. Antelope Valley Unified School Dist.* (9th Cir. 2017) 858 F.3d 1189, 1199-1200.)

OAH has not received a copy of Campbell Union response to Student's complaint. Campbell Union shall file its response with OAH within three business days from the date of this PHC. (*Ibid.*)

PREHEARING BRIEFING

At the PHC, Student was ordered to brief Issues the parties were ordered to file briefing regarding Issues 1.d., 1.k., 1.l., including: (1) the authority for Student's claim

that Respondents were required to cite to the supporting general education curriculum and state standards for each of the goals developed at the October 21, 2021 team meeting; (2) the authority supporting Student's claim that Respondents were required to offer an assessment plan to collect data for a nonpublic school placement after the October 26, 2020 IEP team meeting; and (3) argument supporting Student's claim that the two-year statute of limitations does not bar Student's claim regarding Respondents' failure to assess Student for the October 29, 2019 triennial review. Student shall also brief his position and authority for including sensory processing in Issues 1.b.i.e), 1.b.ii.e) and 1.b.iii.e). Student's brief shall be filed and served by no later than February 24, 2022, an extension of one day beyond the due date ordered at the PHC because February 21, 2022 is a holiday. Respondents' responsive briefs shall be filed no later than February 29, 2022.

As part of the meet and confer process ordered below to take place by March 2, 2022 at 4:00 PM, the parties shall discuss the issues that have been briefed and any objections filed by any party and attempt to resolve any disputes regarding these issues/objections prior to the hearing.

EXHIBITS

The parties shall upload their exhibits electronically according to the Order Setting Procedures for Filing Exhibits Electronically.

The parties shall serve their exhibits on each other in compliance with Education Code section 56505, subdivision (e)(7). Timely uploading electronic hearing exhibits five business days before the first day of hearing constitutes that party's timely exchange of evidence on each other in compliance with Education Code section 56505, subdivision (e)(7).

Except for good cause shown, or unless used solely for rebuttal or impeachment, any exhibit not timely exchanged as required by Education Code section 56505, subdivision (e)(7) shall not be admitted into evidence at the hearing unless the ALJ rules that it is admissible.

IDENTIFYING EXHIBITS AND PAGE NUMBERS

Each exhibit must be identified by a letter and number. Student must use the letter S before the number to identify Student's exhibits. Campbell Union must use the letter D before the number to identify its exhibits. Santa Clara County must use the letter C before the number to identify its exhibits. For example, S-1 means Student's exhibit 1, D-1 means Campbell Union exhibit 1, and C-1 means Santa Clara County's exhibit 1. A cover sheet with this identifying letter and number should be the first page of each exhibit. The electronic evidence program will automatically number the exhibits and additional page numbering or bates stamping should not be added.

CONTENT

Each exhibit must consist of one document. Separate documents may not be combined into one exhibit. Emails or letters may be consolidated into one exhibit if they are part of a single chain of messages. Exhibits should be in chronological order.

Parties should include resumes or curriculum vitae for each witness who is expected to testify as an expert.

Respondents' exhibits must include a copy of the school calendar for each school year in question.

Electronic copies of exhibits filed with OAH shall be filed by 5:00 PM at least five business days before the first day of hearing. Please refer to the General Order OAH

issued with the Scheduling Order that contains the Order Setting Procedures for Filing Exhibits Electronically. It includes instructions for how to file exhibits electronically. Beginning three business days before the hearing, the electronic evidence system will not allow parties to upload exhibits unless permitted by the ALJ during the hearing at the ALJ's discretion.

WITNESSES

The parties shall serve their list of witnesses on each other in compliance with Education Code section 56505. No party shall be permitted to call any witnesses not timely disclosed except for good cause shown, supported by written declaration under penalty of perjury, and at the discretion of the ALJ.

Parties are responsible for ensuring that all participants are familiar with and follow the Instructions for Joining the Online Due Process Hearing provided with this Order. Participants that have not previously used the MS Teams platform, may also find informative videos available like the one at this link from Microsoft:

<https://support.office.com/en-us/article/join-a-teams-meeting-078e9868-f1aa-4414-8bb9-ee88e9236ee4>.

The parties are responsible for ensuring that witnesses join the virtual hearing room at the designated date and time to testify. Witnesses are required to join the due process hearing by computer and appear by videoconference unless they do not have the necessary computer equipment. If a witness does not have the necessary equipment, the ALJ may permit the witnesses to appear by audio only or by telephone. "Audio only" means using a computer without webcam. Witness ability to attend the hearing by videoconference will be discussed at the start of the hearing.

The parties are responsible for producing their own witnesses unless otherwise ordered by the ALJ. Parties shall make witnesses under their control reasonably available. The parties must schedule their witnesses to avoid delays in the hearing and to minimize or eliminate the need for calling witnesses out of order. Neither party will be permitted to call any witnesses not timely disclosed except for good cause shown, and at the discretion of the ALJ.

The ALJ has discretion to limit the number of witnesses and the time allowed for witnesses' testimony. Education Code, section 56505.1, subdivision (h), empowers the ALJ to set a reasonable limit on the length of the hearing after consideration of four factors. The first two factors are the issues to be heard and the complexity of facts to be proven. The second two factors are the ability of the parties or their representatives to present their respective cases and the parties' estimates of the time needed to present their cases.

MEET AND CONFER

The parties are encouraged to review and shorten their witness and exhibit lists before the hearing. Evidence may be excluded if it is repetitive, cumulative, or insufficiently probative to justify the time it would take to hear.

The parties are ordered to meet and confer no later than March 2, 2022 at 4:00 PM to discuss scheduling witnesses and how much time each witness will take to testify. The parties shall discuss any issues related to counsel and witnesses appearing by videoconference for hearing and electronically viewing exhibits during the hearing, or subpoenas, if any. The parties should attempt to eliminate duplicate exhibits from their hearing exhibits. The parties shall discuss whether they can produce a written

stipulation as to pertinent facts, contentions, resolutions and authenticity and admissibility of documents to shorten the length of time needed for the hearing.

As part of the meet and confer process, Respondents shall inform Student which proposed witnesses are district employees. Respondents shall also identify the witnesses on Student's list that require a subpoena. Respondents may agree to accept service for witnesses under that Respondent's control or provide Student with the witness' most recent contact information.

PARTICIPANT INFORMATION FORM

Both parties have an ongoing obligation to ensure that OAH has current information on the Participant Information Form filed with OAH and shall file an updated Form as necessary. The Participant Information Form is not served upon the opposing party. The ongoing obligation to ensure that the Participant Information Form filed with OAH is current does not change the parties' statutory obligation to timely disclose their witnesses to the other party(s) at least five business days prior to hearing. The parties must file an updated Participant Information Form to inform OAH of any changes, additions, or deletions, including the required information no later than 5:00 PM at least two business days before the first day of hearing.

Any contact information provided shall be used for the limited purpose of issuing subpoenas or for contacting the witness(es) for purposes of attending the hearing and shall not be disclosed to any other person(s).

EVIDENCE PRESENTATION

In an administrative proceeding, the burden of proof is ordinarily on the party requesting the hearing. (*Schaffer v. Weast* (2005) 546 U.S. 49, 62.) In this case Student

requested the hearing and bears the burden of proof. Student's case-in-chief shall be presented first, followed by Campbell Union, followed by Santa Clara County, unless otherwise ordered.

WITNESS LISTS

The parties must provide a joint proposed witness list to the ALJ on the first day of hearing. The list should include the first and last name of the witness, which party(s) are calling the witness to testify, and include dates and time estimates of each witness' expected testimony. In the event an agreement cannot be reached, each party shall prepare a separate written list. All parties must have witnesses available in case there is no agreement.

At the beginning of the hearing, the ALJ and the parties will discuss the length of time anticipated for each witness and scheduling issues for individual witnesses. The ALJ will finalize the witness schedule. Parties must be prepared at the end of each day to discuss the witnesses to be presented the next day and the estimated time for the testimony each witness.

SCOPE OF WITNESS EXAMINATION

Each witness will be called to testify only once, except for rebuttal purposes. All parties must examine witness on all issues when the witness is first called. Requiring a witness to appear only once takes priority over the order in which parties present their case-in-chief.

AUDIO ONLY OR TELEPHONIC TESTIMONY

Whether a witness may appear by audio only or telephone instead of videoconference 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 audio only or telephone shall request permission to do so before the hearing. Any party seeking to present a witness who cannot access exhibits electronically must inform the ALJ at the beginning of the hearing.

ELECTRONIC RECORDINGS

AUDIO RECORDING

A party may request permission to make an audio recording of the hearing. Permission to make an audio recording is subject to the ALJ's discretion and based upon certain conditions. The conditions are:

1. the OAH recording is the only official recording;
2. participants shall not use Teams to record the hearing;
3. the parties shall turn their recording device on and off at the same time that the ALJ is on and off the record to avoid recording conversations while off the record;
4. operation of the party's recording mechanism will not be allowed to delay the hearing;
5. a parties' recording may not be given, provided or played to a witness, or potential witness; and
6. the recording is subject to the same confidentiality as the due process hearing;

7. use of the chat function in the videoconference is prohibited and shall not be part of the official record;
8. participants shall not take screenshots of the videoconference or share or publish any portion of the videoconference or audio recording.

The parties' request to audio record the hearing is granted, subject to these conditions.

VIDEO RECORDING

No party, witness or anyone else may make any video recording of any part of the proceedings or stream live through any means.

RECORDINGS AS EXHIBITS

No party proposes to introduce all or part of a recording of an individualized education program team meeting. Recordings may not be uploaded electronically without the ALJ's permission. The ALJ has discretion to admit or exclude evidence in the form of a recording. Any request to submit a recording shall be considered at the time of hearing.

The ALJ may grant or deny the request or grant the request subject to certain conditions. The party offering the recording must establish that all or a part of the recording is relevant. The ALJ may request a transcript of the portion of the recording requested or have the party offering the recording to provide an exact identifiable portion of the recording the party seeks to admit. The identities of any person speaking on the portion of the tape being introduced must be established. An ALJ may allow the opposing party to offer additional portions of a recording to establish the context, or to rebut, the recording.

COMPENSATORY EDUCATION OR REIMBURSEMENT

Any party seeking reimbursement for expenditures shall present admissible evidence of these expenditures, or a stipulation to the amount of the expenditures. A party seeking compensatory education should provide evidence regarding the type, amount, duration, and need for any requested compensatory education. Documents offered as evidence to support a request for reimbursement must be separated by vendor.

MOTIONS

No prehearing motions are pending or contemplated. Any motion that was not filed three business days before the PHC, shall be supported by a declaration under penalty of perjury establishing good cause why the motion was not timely filed.

STIPULATIONS

Stipulations to pertinent facts, contentions, resolutions and authenticity and admissibility of documents are encouraged. Any proposed stipulation shall be submitted to the assigned ALJ in writing prior to the start of the hearing.

CONDUCT OF COUNSEL AND HEARING ROOM DECORUM

All participants to the videoconference should observe the same decorum as in an in-person due process hearing. Counsel, all parties, and all witnesses must conduct themselves in a professional and courteous manner at all times. Cellular phones, telephones and computer notifications must be shut off or set to silent during the hearing unless the ALJ grants permission otherwise. Counsel, parties, and witnesses should appear from a private location, unless otherwise ordered. Participants should

take reasonable efforts to minimize background noise and maintain adequate room lighting. Use of virtual background images are at the discretion of the ALJ. Witnesses are prohibited from reading exhibits, documents, notes, text messages, telephones or computers while testifying, unless permitted to do so by the ALJ. Parties, counsel and witnesses are prohibited from passing notes to, exchanging electronic messages with, or signaling the witness in any way while the witness is testifying.

LANGUAGE INTERPRETERS AND REASONABLE ACCOMMODATIONS

Santa Clara County asked for an accommodation to allow the witnesses to use notebooks containing hardcopies of the electronic exhibits in CaseLines. Generally, the witnesses may be permitted to use the hard copies of the exhibits to the extent they are identical to the electronic exhibits in CaseLines. However, Santa Clara County shall ensure that its witnesses have access to CaseLines in the event that it becomes necessary for the witnesses to view electronic copies of the exhibits.

A party or participant in this case, such as a witness, requiring reasonable accommodation to participate in a mediation or hearing may contact OAH at (916) 263-0880, or send an email to OAHADA@dgs.ca.gov as soon as the need is known. The e-mail should have "Request for Accommodation" in the Subject Line. Additional information concerning requests for reasonable accommodation is available on OAH's website at: <https://www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Accommodations-at-OAH>.

HEARING CLOSED TO THE PUBLIC

The hearing is closed to the public. Special Education hearings are closed to the public unless Student requests the hearing to be open to the public.

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 if 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. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

If a full and final written settlement agreement is reached after 4:00 PM 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.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed 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. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings