

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

IRVINE UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2026041147

OAH CASE NUMBER 2026080762

ORDER DENYING STUDENT'S MOTION IN LIMINE

SEPTEMBER 10, 2026

On September 3, 2026, Student filed a motion in limine with the Office of Administrative Hearings, called OAH. Student seeks to preclude Irvine Unified School District witnesses who Irvine did not disclose as expert witnesses in its prehearing conference statement, called PHC, from offering expert opinion testimony. Student takes issue with Irvine's most recent PHC statement, prepared for the September 4, 2026 PHC, on two grounds. First, Irvine indicates that most of its identified witnesses will testify as to their qualifications and experience. Student argues the only reason for such testimony is for the witness to draw on specialized training and knowledge to opine on Student's placement, program or services. Student further argues this is precisely the kind of testimony California Evidence Code section 801 defines as expert testimony.

Second, Irvine indicates in its PHC statement that it has not designated its staff as experts but reserves the right to do so. Student argues Irvine must be precluded from eliciting expert testimony from any witness not designated as an expert to prevent unfairness to Student.

At the September 4, 2026, PHC, this matter was continued. The PHC is calendared for September 21, 2026, with hearing beginning September 29, 2026.

On September 9, 2026, Irvine filed an opposition to Student's motion in limine. Irvine asserts it has not designated any expert witnesses so there is nothing to preclude. Irvine argues that just because a witness testifies as to their qualifications and experience does not mean they are providing expert testimony. Further, Irvine notes that OAH requires that parties provide resumes for professional witnesses. Irvine contends there is no surprise, asymmetry, or prejudice to Student as Student is aware of which Irvine staff are working with him or have worked with him, and Student can prepare for their testimony as to their role, involvement, and recommendations. Irvine requests the motion be denied as it is an attempt to preclude Irvine witnesses from testifying concerning their involvement with and recommendations for Student to the extent they rely on their own judgment, knowledge, and experience.

WITNESS TESTIMONY IN SPECIAL EDUCATION PROCEEDINGS

OAH requires a party to file a PHC statement at least three business days prior to the PHC. Each party has a duty to disclose their witnesses and documentary exhibits in the PHC statement. Education code section 56505, subdivision (e)(7), requires the parties to a due process hearing to provide documents and disclose witnesses to the other party at least five business days before the commencement of hearing. The

administrative law judge hearing the case has the discretion to exclude from evidence any documents, or witness testimony not so disclosed. (Ed. Code, § 56505.1, subd. f.)

Under the California Evidence Code, if a witness is not testifying as an expert, they may provide opinion testimony. A non-expert's testimony in the form of an opinion is limited to such an opinion, as is permitted by law, including but not limited to an opinion that is:

- (a) Rationally based on the perception of the witness; and
- (b) Helpful to a clear understanding of his testimony.

(Evid. Code, § 800.)

A court has broad discretion to admit lay opinion testimony, especially where adequate cross-examination has been allowed. (*Krolkowski v. San Diego City Employees' Retirement System* (2018) 24 Cal.App.5th 537, 573.)

Expert testimony is limited to subjects that are sufficiently beyond common experience that the opinion of an expert would assist the trier of fact and is based on matters including special knowledge, skill, experience, training, and education related to the subject of the testimony. (Evid. Code, § 801.)

However, special education due process hearings "shall not be conducted according to the technical rules of evidence and those related to witnesses." (Cal. Code Regs., tit. 5, § 3082, subd. (b).) Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objections in a civil action. (Govt. Code, §11513, subd. (c); Cal. Code Regs., tit.5, § 3082, subd. (b).)

STUDENT'S MOTION IS PREMATURE AND INSUFFICIENT

A motion in limine may be brought to exclude evidence before it is offered at hearing. However, in this case, the motion is premature. The PHC will not be held until September 21, 2026. Both parties may amend their PHC statements and witness disclosures. Further, Student acknowledges that it is the substance of the testimony that determines whether such testimony is in the nature of an expert, as opposed to lay, opinion. Whether witness testimony crosses over into impermissible expert opinion testimony is within the sound discretion of the hearing officer at the time of hearing.

In this case, Student appears to argue that Irvine's witnesses are prohibited from providing any opinion testimony. Student's argument is not persuasive nor legally supported. Irvine's opposition notes that Irvine's staff who testify at hearing will provide evidence regarding their experience and background and why they are qualified to provide particular services, or to conduct assessments or develop goals, or discuss Student's progress. Such witness will testify concerning their interactions with Student relevant to their role. They will testify as to their recommendations made through individualized education program offers or through assessments. Irvine's assertion that it need not designate such staff witnesses as experts in order to elicit this testimony is persuasive and supported by Evidence Code section 800.

There is no prejudice to Student. Irvine must timely disclose which witnesses it intend to call at hearing, and Student will be afforded the opportunity to cross-examine them.

Student's motion in limine is DENIED.

IT IS SO ORDERED.

Theresa Ravandi

Theresa Ravandi

Administrative Law Judge

Office of Administrative Hearings