BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of:<br><br>PARENT ON BEHALF OF STUDENT,<br><br>v.<br><br>COMPTON UNIFIED SCHOOL DISTRICT. | OAH Case No. 2018070090<br><br>ORDER DENYING STUDENT'S MOTION IN LIMINE TO EXCLUDE DISTRICT'S EVIDENCE |

Student filed a due process hearing request with the Office of Administrative Hearings, State of California, on June 29, 2018, naming Compton Unified School District. Student's complaint contends that Compton denied her a free appropriate public education by failing to comply with the terms of a December 7, 2016 settlement agreement and assess Student, conduct an individualized educational program meeting, and make an offer of appropriate placement and services by May 31, 2018. Student also asserted Compton denied Student a FAPE by failing to assess Student within 60 days of the signing of an assessment plan, and by depriving Student's parent's meaningful participation in the IEP process by not holding an IEP meeting by May 31, 2018.

On August 14, 2018, Student filed a motion in limine seeking to bar Compton from presenting evidence regarding a July 2018 IEP meeting or any other IEP meeting or any purported offer of a FAPE to Student by Compton after May 31, 2018. On August 15, 2018, Compton filed its opposition to Student's motion.

## APPLICABLE LAW AND DISCUSSION

*Motion in Limine*

Evidence Code Section 350 states, "No evidence is admissible except relevant evidence." Relevant evidence is defined as evidence "having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." (Evid. Code, § 210.) Any relevant evidence shall be admitted if it is the sort of evidence on which responsible person are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or stature rule which might make improper the admission of the evidence over objections in civil action. (Govt. Code §11513 (c).) The presiding officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time. (Govt. Code §11513 (f).)

Education Code section 56505.1, subd. (h), empowers the ALJ presiding at a due

process hearing to set a reasonable limit on the length of the hearing after consideration of all of the following: (i) issues to be heard, (ii) complexity of facts to be proven, (iii) ability of the parties or their representatives to present their respective cases, and (iv) estimates of the parties as to the time needed to present their respective cases.

Here, Student has generally limited her issues to those relating to a potential FAPE denial arising out of Compton's alleged failure to comply with the terms of the December 7, 2016 settlement agreement by May 31, 2018. However, Student's request to bar Compton's introduction of any evidence related to IEP meetings or offers after May 31, 2018 fails to consider that such evidence may be relevant to the remedies sought by Student at hearing, or on some other grounds, and Compton's defense to same. As such, issues regarding the relevance of evidence as described by Student in her motion in limine will be considered as they arise at the hearing and Student's motion is denied without prejudice at this time.

IT IS SO ORDERED

DATE: August 17, 2018

DocuSigned by:
Ted Mann
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TED MANN
Administrative Law Judge
Office of Administrative Hearings