BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GILROY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024020008

ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE, SETTING ORDER TO SHOW CAUSE RE SANCTIONS AND CONTINUING THE PREHEARING CONFERENCE

MAY 20, 2024

On May 20, 2024, 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.

Sean Hobson, Attorney at Law, appeared on behalf of Student. There was no appearance for Gilroy Unified School District. The ALJ waited approximately 15 minutes

before going on the record to account for any technical issues District counsel might have been experiencing. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

ORDER TO SHOW CAUSE RE SANCTIONS AND PHC CONTINUANCE

During the PHC on April 12, 2024, OAH granted a second request to continue the hearing to June 4 through 6, 2024. The continuance was granted based on District counsel Kristal Tidwell's unavailability due to the illness of a family member and Student counsel's failure to file a PHC statement containing a concise statement of the issues as discussed during the PHC. In the April 12, 2024 PHC Order, both attorneys were ordered to timely file new PHC Statements. Student's attorney was specifically ordered to file a new PHC Statement pursuant to the discussion held at the PHC regarding the inadequacy of the PHC Statement.

The new PHC Statements were due from both parties on May 15, 2024, three business days before the May 20, 2024 PHC. Gilroy Unified filed its PHC Statement on May 16, 2024, a day late. Student did not file a new PHC Statement.

Because the attorneys for the parties failed to comply with the April 12, 2024 PHC Order and because District's counsel failed to appear at the May 20, 2024 PHC, they are both ordered to appear and show cause why monetary or other sanctions should not be imposed against them personally and/or against their firms. The PHC is also continued. The new dates are:

HEARING ON OSC RE SANCTIONS will be held May 24, 2024, at 10:00 AM. Unless Student has already filed a request for dismissal of the case, the parties are

ordered to appear by videoconference or telephonically at that time and show cause why sanctions should not be imposed against them for failing to comply with the April 12, 2024 PHC Order, and as against District's counsel, for the failure to appear at the May 20, 2024 PHC. If a dismissal of the case is filed prior to May 24, 2024, at 10:00 AM, the Order to Show Cause will be discharged.

The attorneys shall file and serve a brief no later than May 23, 2024, at 2:00 PM, explaining why sanctions should not be imposed for their failure to timely file a PHC Statement. District's counsel shall also explain why sanctions should not be imposed for her failure to appear at the May 20, 2024 PHC.

PREHEARING CONFERENCE will be held on May 24, 2024, at 10:00 AM, immediately following the Order to Show Cause Hearing. Student is also ordered to timely file and serve a compliant PHC Statement by no later than May 21, 2024, at 5:00 PM.

The hearing shall remain on calendar as scheduled on June 4 through 6, 2024. The PHC and due process hearing will be held by videoconference or telephone, unless otherwise ordered. The due process hearing will begin at 9:30 AM on all days, and generally end at 3:30 PM, unless otherwise ordered. The hearing will continue day to day, as needed, Mondays and Fridays included, at the discretion of the ALJ. Motions are due to OAH no later than three business days before the PHC. Late motions will only be considered if good cause is established for the late filing.

The parties must immediately give potential witnesses the hearing dates, and must subpoena witnesses, if necessary, so they are available to testify. Failing to properly notify or subpoena a witness is not good cause to delay the hearing.

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 by visiting OAH Secure e-file 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. The parties should follow up any filing they do regarding settlement with a phone call to OAH alerting them the filing.

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.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings