BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025010260

ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE, DENYING MOTION FOR RECONSIDERATION OF PARTIAL DISMISSAL OF ISSUES

FEBRUARY 19, 2025

On February 14, 2025, Administrative Law Judge Penelope Pahl, Office of Administrative Hearings, also called OAH, held a prehearing conference by videoconference. Both Parents, who were self-represented, appeared on behalf of Student. Attorney Monica Batanero appeared on behalf of Los Angeles Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

PRELIMINARY MATTERS

PARENTS' STANDING TO PURSUE STUDENT CLAIMS

At the beginning of the prehearing conference, also called a PHC, two preliminary matters were raised. The first was noted by both sides, and concerned Parent's authority to raise claims for their adult daughter. Student is 19 years old.

Los Angeles did not file a motion regarding Parents' standing. However, Los Angeles' counsel explained that filings by Parent indicated OAH had informed Parent that the Administrative Law Judge, also called an ALJ, would discuss the issue at hearing. Counsel stated she did not believe it necessary to file a motion. It was also Parents' understanding that the topic would be raised by the PHC ALJ.

During the PHC, Parents stated that they had an order of conservatorship from the Los Angeles County Superior Court. Parents agreed to file a copy of the conservatorship order with OAH, and serve a copy on Los Angeles' attorney by Wednesday, February 19, 2025. Los Angeles was given three business days after service to file any motion it deems necessary regarding the conservatorship order. Should Student believe a reply to any filing from Los Angeles is necessary, they may file a written reply prior to the first day of hearing. Any dispute regarding the conservatorship document will be addressed on the first morning of hearing.

FAILURE TO PARTICIPATE IN RESOLUTION SESSION MAY DELAY HEARING

Los Angeles asserts Student has not cooperated in scheduling or participated in a resolution session. Prior to the opportunity for an impartial due process hearing, the local educational agency shall convene a resolution meeting with the parents and the

relevant member or members of the individualized education program team who have specific knowledge of the facts identified in the due process hearing request, in accordance with Section 1415(f)(1)(B) of Title 20 of the United States Code and Section 300.510 of Title 34 of the Code of Federal Regulations. (20 U.S.C. 1415(f)(1)(B); 34 C.F.R. 300.510; Ed. Code § 56501.5, subd. (a).) The meeting must include a representative who has decision making authority on behalf of the school district. (Ed. Code § 56501.5, subd. (a)(2).) The meeting shall not include attorneys unless both sides agree to have attorneys present. (Ed. Code § 56501.5, subd. (a)(3).) Except where the parties have jointly agreed to waive the resolution process or to use mediation, the failure of the parent filing a due process hearing request to participate in the resolution meeting will result in the delay of the due process hearing. (Ed. Code § 56501.5, subd. (e).) After 30 days, if the school district is unable to obtain the parents' participation in the resolution session, after reasonable efforts, or alternatively participation in mediation, if both sides agree, the district may request that the request for due process hearing be dismissed. (Ed. Code § 56501.5, subd. (e)(1).)

The mandatory resolution session must be held prior to a due process hearing proceeding, unless both parties agree to waive it or participate in mediation. Los Angeles has not yet filed a motion related to their allegation that Parents have not participated in a resolution session. Accordingly, at this juncture, Los Angeles' assertion is noted for the record.

HEARING DATES, TIMES, AND LOCATION

DUE PROCESS HEARING

The hearing will take place on February 25, 26 and 27, 2025. After the scheduled dates, the hearing shall continue day to day, as needed, Mondays and Fridays included,

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. Additional hearing dates, if needed, 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).) OAH will conduct the due process hearing by videoconference using the Zoom application. Unless otherwise ordered, participants are required to appear by videoconference using computer or device with video capability and Zoom.

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.

MOTION FOR RECONSIDERATION

On January 8, 2025, Parents, on behalf of Student filed a complaint, OAH, naming Los Angeles as respondent. On January 30, 2025, Los Angeles filed a Motion to Dismiss alleging OAH lacked jurisdiction to adjudicate certain issues alleged in the complaint. On February 6, 2025, the undersigned issued an order partially granting and partially denying Los Angeles' motion to dismiss Student's issues. On February 12, 2025, Student requested reconsideration of the order dismissing some issues. On February 13, 2025, Los Angeles filed an opposition to Student's request for reconsideration.

Reconsideration is an " 'extraordinary remedy,' ... which 'should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law.' " (*J.R. ex rel. Perez, v. Ventura Unified School District*, (C.D. Cal. Dec. 2024) 2024 WL 5265366, p. 5, citing, *Carroll v. Nakatani*, (9th Cir. 2003) 342 F.3d 934, 945.) A party seeking reconsideration must show: "(a) a material difference in fact or law from that presented to the Court that, in the exercise of reasonable diligence, could not have been known to the party moving for reconsideration at the time the Order was entered, or (b) the emergence of new material facts or a change of law occurring after the Order was entered, or (c) a manifest showing of a failure to consider material facts presented to the Court before the Order was entered." (*J.R. ex rel. Perez, v. Ventura Unified School District*, *supra*, 2024 WL 5265366, p. 5, citing, C.D. Cal. R. 7-18; *See also* Fed. R. Civ. P. 59(e).)

During the prehearing conference, the motion for reconsideration was denied. After consideration of Student's moving papers it was determined that no new law was offered in support of Student's request for reconsideration. Nor did Student offer new facts or circumstances that would support reconsideration of the order, or demonstrate a failure to consider material facts when determining the original order. The issues stated in this order incorporate the ruling in the February 6, 2025 Order partially dismissing issues.

PRELIMINARY MATTER HEARING ON STUDENT'S ASSERTED CLAIM TO EXTEND STATUTE OF LIMITATIONS

Student asserts that Los Angeles withheld information it was required to disclose, resulting in Parents being prevented from filing a claim prior to March 2024 regarding

Los Angeles' failure to assess and find Student eligible for services. Student argues that, as a result, an exception to the statute of limitations is applicable.

The Individuals with Disabilities Education Act, or IDEA, allows states to establish their own statute of limitations for special education cases. (20 U.S.C. §1415(b)(6)(B) and (f)(3)(C).) In California, the statute of limitations is two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request. (Ed. Code, § 56505, subd. (l).) Both the IDEA and California Special Education law establish exceptions to the statute of limitations in cases in which the parent was prevented from filing a request for due process due to the local educational agency's withholding of information that was required by statute to be provided to the parent. (20 U.S.C. § 1415(f)(3)(D); Ed. Code § 56505, subd. (l)(1) and (2).)

OAH sometimes considers statute of limitations issues preliminarily to promote judicial economy by determining the timeframe of the claims at the beginning of the hearing and then hearing the rest of the evidence on the substance of the claims after determining the scope of the statute of limitations. This process was discussed in prehearing conference.

Student is ordered to carefully consider the witnesses and documentary evidence she will need to prove the limited question of extending the statute of limitations. Los Angeles is ordered to carefully consider the evidence necessary to prove its defense on this narrow inquiry. As part of their ordered meet and confer process, the parties will create a witness schedule that starts with the witnesses as to this limited issue only.

On the first day of hearing, following completion of any preliminary procedures, the case will begin with the presentations of witnesses and evidence on the statute of limitations question only. Once both sides have completed their evidence presentations

on their positions regarding extending the statute of limitations, the ALJ will recess to consider the applicable scope of the statute of limitations. The ALJ will tell the parties how long the deliberations on the statute of limitations issue will take. Following deliberations, the ALJ will announce the decision regarding the applicable statute of limitations scope on the record. The complete statute of limitations analysis will be included in the written Decision issued following the conclusion of the hearing.

ISSUES AND PROPOSED RESOLUTIONS

Pursuant to discussions with the parties during the Prehearing Conference, the ALJ has clarified the statement of some issues and re-ordered the issues as allowed by the holdings in J.W. v. Fresno Unified Sch. Dist. (9th Cir. 2010) 626 F.3d 431, 442-443, and Ford v. Long Beach Unified Sch. Dist. (9th Cir. 2002) 291 F.3d 1086, 1090. No change in substance has been made.

ISSUES

1. Did Los Angeles Unified School District deny Student a FAPE during the 2021-2022 school year, from March 2022 through May 2, 2023, the initial individualized program team meeting, by failing to assess student for eligibility under the categories of Autism; Other Health Impairment, on the grounds of Attention Deficit Hyperactivity Disorder, or ADHD; and Emotional Disability?
2. Did Los Angeles deny Student a FAPE during the 2022-2023 school year, by failing to:
    a. administer a test to measure Student's IQ from November 2022;
    b. administer a legally compliant psychoeducational assessment, which was reviewed at the May 2, 2023 IEP;

c. offer mental health goals that met Student's needs;

d. offer mental health services that met Student's needs;

e. offer mental health accommodations that met Student's needs;

f. offer Student a safety plan in response to Parent concerns that Student was being bullied?

3. Did Los Angeles deny Student a FAPE during the 2023-2024 school year, by:

a. failing to convene the August 28, 2023 IEP team meeting with a general education teacher that met the requirements of state and federal law;

b. failing to offer mental health goals that met Student's needs

c. failing to offer mental health services that met Student's needs;

d. failing to offer mental health accommodations that met Student's needs;

e. failing to offer Student a safety plan in response to Parent's concerns about bullying;

f. changing her placement from September 2023 to Resource Learning Lab classes without parental consent;

g. withholding educational records, specifically complete RSP reports that Parents requested in September 2023, and notes between Student and her teacher Krupa that Parents requested in October 2023;

h. failing to implement the RSP services in math and English listed in Student's August 28, 2023 IEP, including grading math exams in October and December 2023;

i. failing to allow Student access to extracurricular activities and after-school clubs including the club's field trips from October 2023;
j. pressuring Parents to unenroll Student from November 2023;
k. failing to conduct a legally compliant functional behavior assessment, which was reviewed at the November 17, 2023 IEP team meeting;
l. Failing to explain the need for several additional IEP attendees invited by Los Angeles for a fall 2024 IEP team meeting;
m. Failing to implement IEP accommodations of allowing Student to re-take exams and quizzes in her Spanish class, from October 2023 to February 2024;
n. failing to allow her private psychologist and primary care physician from attending the November 17, 2023 IEP team meeting;
o. unilaterally altering Student's Spring 2024 semester scheduled without Parent's consent;
p. unlawfully unenrolling Student in February 2024?

ISSUES DISMISSED:

As stated in the order following dismissal, the following claims were dismissed as outside OAH jurisdiction in the February 6, 2025 Order granting dismissal in part and denying dismissal in part:

1. All asserted claims related to Los Angeles Unified School District's alleged Child Protective Services report;
2. All asserted claims related to Los Angeles' alleged Title IX sexual harassment complaint, as well as all claims related to the Americans with

Disabilities Act and Section 504 of the Rehabilitation Act and any other asserted Civil rights claims;

3. All personal injury claims; and
4. Claims made against regional operations employees and the Los Angeles Superintendent of Schools.

The basis for these dismissals is fully explained in the February 6, 2025 order.

EXTRACURRICULAR ACTIVITIES

Los Angeles' objection to Student's claims that it denied FAPE when it denied access to extracurricular activities is overruled. Los Angeles asserted at the prehearing conference that such claims fell only under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.). This is an inaccurate statement of the law. Student's rights to services and accommodations that allow access to extracurricular activities and other non-academic services are protected by both the IDEA and California special education laws. (see, 34 C.F.R. 107; Ed Code 56345.2) Accordingly, Student's issues survive and Student has the burden of proof to establish violations.

EVIDENTIARY CLAIMS THAT ARE NOT SEPARATE ISSUES

Student asserted several evidentiary claims that are not independent issues for adjudication. Evidentiary claims may be raised in support of issues. For instance, evidence that Los Angeles manipulated documents to get a functional behavior assessment is not an independent claim. It is possible, however, that evidence of such activity could help to prove that a functional behavior assessment does not meet legal standards. Student may offer relevant evidence to prove her claims. Any evidence offered will be evaluated for admission to the record.

ADDITIONAL CLAIMS ASSERTED THAT ARE OUTSIDE OAH JURISDICTION

Several additional claims Student asserted as denials of FAPE in the complaint, that were discussed at the prehearing conference, are not within OAH's jurisdiction. Those are:

1. Claims that Los Angeles denied Student's request for early graduation on the grounds she was a special education student. This claim may assert a general education claim that Student's request to graduate early was mishandled. Or it may assert a claim of discrimination on the grounds of disability. In either case, it does not fall within OAH's limited jurisdiction.
2. Claims that Los Angeles failed to update school records and the school website regarding incomplete grades, resolution, and of credit recovery coursework completion. These allegations do not assert special education claims.
3. The claim that Los Angeles sent an outdated transcript to California Connections is also not an IDEA or California special education claim.

PARTY ISSUE REVIEW RESPONSIBILITY AND DISPUTE NOTIFICATION

The parties are responsible for carefully reviewing the issues as stated in this prehearing conference order. These will be the hearing issues. A party believing that an issue has been misstated or improperly omitted shall promptly file a notice in writing, prior to the first day of hearing, stating its concern and referring to supporting portions of the complaint.

PROPOSED RESOLUTIONS

The resolutions requested by Student in her complaint include: compensatory academic tutoring, social skills training, and counseling, as well as payment of Student's

college tuition or other educational placement of Student's choice; completion of an IQ test; and parental training to assist Parents in supporting Student's learning needs at home. Student also requests an investigation into Los Angeles' handling of Student's case, and policy reforms to ensure timely bullying report responses and proper IEP implementation.

EXHIBITS

Exhibits must be uploaded electronically according to the Order Setting Procedures for Filing Exhibits Electronically which was attached to the Scheduling Order in this case. This order gives detailed instructions for naming and identifying exhibits.

Timely uploading electronic hearing exhibits five business days before the first day of hearing constitutes that party's timely exchange of evidence in compliance with Education Code section 56505, subdivision (e)(7). If further assistance is needed regarding exhibit uploads, please contact OAH at OAHSEOps@dgs.ca.gov. It is not necessary to file exhibits or witness schedules with OAH if they have been uploaded into Case Center.

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) and this order, 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 for example, S-1, S-2, etc.. Los Angeles must use the letter D before the number to identify Los Angeles' exhibits, for

example, D-1, D-2 etc. 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. Additional page numbering or bates stamping should not be added.

EXHIBIT CONTENT

- Each exhibit must consist of one document with all of its pages. Always check that exhibits contain all pages and that each page is legible prior to uploading.
- Different documents may not be combined into one exhibit.
- Emails may be consolidated into one exhibit if they all refer to the same topic, and are part of a single chain of email messages.
- Exhibits should be uploaded into Case Center in chronological order.
- Parties should include resumes or curriculum vitae for each witness who will testify to their professional credentials.
- Los Angeles' exhibits must include a color copy of the school calendar for each school year in question, including each school year for which remedies are a possibility.

WITNESSES

The parties shall disclose witnesses they intend to call to each other in compliance with Education Code section 56505. No party shall be permitted to call any witnesses not timely disclosed, unless good cause is shown in writing, supported by a sworn declaration under penalty of perjury. Presenting evidence that was not disclosed by the deadline is 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 who have not previously used the Zoom application, may find informative instructions on at by visiting, Getting Started with Zoom at https://support.zoom.us/hc/en-us/categories/200101697.

AUDIO ONLY OR TELEPHONIC TESTIMONY

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 video, or only a telephone, and is disfavored, unless no other option is available. If either side has a witness who is unable to attend the hearing by computer, a motion must be filed with OAH prior to the beginning of the hearing explaining why the person is unable to join the hearing using a computer and video.

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 file a motion requesting permission to do so before the hearing. Any motion filed after the prehearing conference must be accompanied by a declaration stating why the motion was not filed on time as directed in the scheduling order.

WITNESS ATTENDANCE IS THE PARTY'S RESPONSIBILITY

The parties are responsible for making sure their own witnesses attend the hearing, unless otherwise ordered by the ALJ. Parties shall make witnesses under their control reasonably available when possible. The parties must schedule their witnesses to avoid delays in the hearing.

ALJ MAY LIMIT UNNECESSARY OR DUPLICATIVE EVIDENCE

The ALJ has discretion to limit the number of witnesses presented, and the time allowed for testimony. California Education Code, section 56505.1, subdivision (h), gives the ALJ authority 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.

Parties will be expected to be prepared for hearing. Parties will be expected to prepare questions they need to ask witnesses before the hearing begins. Parties are allowed to ask witnesses questions about documents, events relevant to the issues being decided, and about their opinions if their opinions are relevant to the case.

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, or does not help the judge to understand a parties' arguments. The judge may also refuse to hear evidence if the evidence is too time consuming to justify the time it would take to hear compared to the value of the information it will provide to the judge.

The parties are ordered to meet and confer no later than Thursday, February 20, 2025 at 3:00 PM to discuss:

- how many witnesses each side will most likely call, and how many of those witnesses are on both sides' witness lists;
- an estimate of how much time each side will need to question each witness and a jointly agreed witness schedule;
- any concerns related to a witness' inability to appear by videoconference for hearing, use the electronic evidence program Case Center, or the need for witness subpoenas, if any; and
- whether duplicate exhibits can be eliminated by comparing the documents each side wants the judge to consider.

As part of the meet and confer process, Los Angeles will inform Student whether witnesses Student wishes to call are current Los Angeles employees. Each side will inform the other whether witnesses under their control must be subpoenaed instead of just given notice to attend the hearing on a certain date and time. Counsel for Los Angeles will advise Parents whether she is able to accept service of a list of Los Angeles employees Student requests to appear at hearing with specified dates and times, or can accept service of subpoenas for Los Angele employees.

WITNESS ATTENDANCE IS THE PARTY'S RESPONSIBILITY

Although cooperation by both sides in making witnesses available to testify is encouraged, the parties are responsible for making sure their witnesses attend the hearing unless otherwise ordered by the ALJ. A party's failure to properly notify or subpoena a witness is not an excuse justifying additional hearing time, or a delay in the hearing.

PARTICIPANT INFORMATION FORM

Both parties must ensure OAH has current contact information including email addresses and telephone numbers, for all hearing participants and witnesses. Updated Participant Information forms are required if OAH does not have a party or witness' current contact information. Updated forms must be filed two business days before the hearing starts. The Participant Information Form is not required to be served on the opposing party. The parties must file an updated Participant Information Form to inform OAH of any changes, additions, or deletions to the list of those participating in the hearing, including the required contact information, no later than 5:00 PM at least two business days before the first day of hearing.

The parties' statutory obligation to timely disclose their witnesses to the other party(s) at least five business days prior to hearing is not changed by the parties' obligation to provide complete hearing participant lists to OAH.

Any contact information provided shall be used for the limited purposes of contacting a witness regarding the hearing. Contact information provided to OAH shall not be disclosed to any other person.

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 shall be presented first, followed by Los Angeles' unless otherwise ordered.

WITNESS SCHEDULE

The parties must provide a proposed joint witness schedule to the ALJ on the first day of hearing. The schedule should include:

- the first and last name of all witnesses the parties believe will actually be called;
- the witnesses' title;
- which party is calling the witness to testify;
- the date the witness will testify; and
- the hours each witness is expected to testify.

It is expected that the parties will cooperate to develop the joint witness schedule. In the rare event this is not possible, each party shall prepare a separate written schedule, accompanied by a declaration as to why separate scheduled were required. Student must have witnesses available to start the case.

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 parties must schedule their witnesses to avoid delays in the hearing. 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 of each witness. Given the number of matters to be discussed prior to beginning the hearing, it is recommended that the parties schedule witness testimony to being no earlier than 11:00 A.M. Witnesses for the first morning of hearing should be advised that there may be a delay in beginning witness testimony depending on the time it takes to resolve preliminary matters.

SCOPE OF WITNESS EXAMINATION

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

ELECTRONIC RECORDINGS

AUDIO RECORDING

Los Angeles' counsel, requested permission to make an audio recording of the hearing for the attorney's personal notetaking purposes. Permission to make an audio recording is subject to the ALJ's discretion. Los Angele's request to make an audio recording of the hearing are granted subject to the following conditions:

1. the OAH recording is the only official recording;
2. Los Angeles must turn its recording device off at the same time that the ALJ is off the record to avoid recording off the record conversations;
3. problems with the party's recording mechanism will not be allowed to delay the hearing;
4. a party's recording may not be given, provided or played to a witness, or potential witness; and the recording shall not be shared with any non-party, possible witness, or posted online;
5. participants shall not take screenshots of the videoconference nor share or publish any portion of the videoconference or audio recording.

6. All internal comment and chat features of Zoom have been disabled for purposes of the hearing. Use of any of these features is prohibited and shall not be part of the official record.

Should Student wish to record for self-represented Parents' personal note taking purposes, a request must be made in advance of beginning a recording, seeking the Administrative Law Judge's permission.

VIDEO RECORDING

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

RECORDINGS AS EXHIBITS

Student may request the opportunity to present a portion of an IEP recording as an exhibit. Recordings may not be uploaded to Case Center without the ALJ's permission. However, any recording Student wishes to present as evidence must be exchanged with opposing parties as required by California Education Code section, 56505, subdivision (e)(7). This is usually done by providing the recording on an external memory stick or emailing the portion of the digital recording the party is requesting be admitted as evidence.

The ALJ may grant or deny the request, or grant the request subject to certain conditions. The party offering the recording must establish that the portion of the recording being offered as evidence is relevant. The exact portions of the recording being offered as evidence must be identified, and the persons speaking must be established with admissible evidence. The ALJ may request a transcript of the portion of the recording being offered. An ALJ may allow the opposing party to offer additional portions of a recording to establish the context, or to rebut, the recording.

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.

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

During the prehearing conference, Los Angeles stated it may file a motion regarding Parents' alleged refusal to participate in a resolution session. No other motions were contemplated at the time of the prehearing conference by either side, and no motions are pending. 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 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 PARTICIPANTS AND HEARING ROOM DECORUM

All participants to the videoconference should observe the same decorum as in an in-person due process hearing. Participants 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. Participants 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. The parties, their representative 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

Neither of the parties requested an interpreter. Nor did any of the parties anticipate a need for disability accommodations.

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/Request-Reasonable-Accommodations-for-OAH-Legal-Proceedings.

HEARING OPEN TO THE PUBLIC

The hearing is open to the public. Special education hearings are closed to the public unless a student requests the hearing to be open to the public.

Student is on notice that by choosing an open hearing, highly sensitive personal information will be seen and heard by observers. Observers do not need to identify themselves but must have respectful usernames when joining the hearing.

The following Order applies to observers:

1. Observers will only be admitted to the hearing at the beginning of the hearing day and after the lunch break.
2. Prospective witnesses may not observe the hearing until their testimony is completed, and with the ALJ's permission.
3. Microphone and video shall be off at all times, unless otherwise ordered by the ALJ.
4. Hearing observers will not be allowed to record, photograph, or broadcast the hearing. (California Rules of Court, rule 1.150.) Any person who suspects a member of the public violating this rule, must immediately report the violation to the ALJ.
5. An ALJ may exclude persons whose actions impede the orderly conduct of the hearing, restrict attendance because of the physical limitations of the hearing facility, or take other action to promote due process or the orderly conduct of the hearing. (Cal. Code Regs., Tit. 1, § 1030, subd. (e).)
6. An ALJ may order an open hearing to be closed or make other protective orders to the extent necessary or proper to ensure a fair hearing in the

circumstances of the case, including to protect a minor witness or a witness with a developmental disability. (Gov. Code § 11425.20, subd. (a).)

Any person who suspects a member of the public violating these orders, must immediately report the violation to the ALJ. Failure to follow these orders may result in sanctions, including removal or other sanctions as the law allows.

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.

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.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings