BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: GOLETA UNION SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2014080072 ORDER FOLLOWING PRE-HEARING CONFERENCE

On October 10, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Laurie Gorsline, Office of Administrative Hearings (OAH). Melissa Hatch, Attorney at Law, appeared on behalf of Goleta Union School District (District). Parent appeared on behalf of Student. The PHC was recorded.

Based on discussion of the parties, the ALJ issues the following order:

1. Motion to Continue Hearing, Hearing Dates, Times, and Location. On, 2014, Parent Request to Continue the due process hearing scheduled to begin on October -- , 2014, on the grounds that --. District filed no written opposition to Parent's Request to Continue. At the PHC,

Good cause having been shown, the hearing was continued and shall take place on ----------, 2014, and continue day to day, Monday through Thursday, as needed at the discretion of the ALJ. The hearing shall begin each day at 9:00 a.m. and end at 5:00 p.m. with the exception of the first day of hearing, on which day the hearing shall begin at 9:30 a.m., unless otherwise ordered.

The hearing shall take place at the District's offices located at Goleta Unified School District, 401 North Fairview Avenue, Goleta, California 93117. District will ensure that parking is available for Student and her representatives and the ALJ.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

2. PreHearing Conference. The telephonic PHC was continued to _____, 2014 at 10:00 a.m. OAH will initiate the conference call. PHC

statements shall be filed with OAH and served by the parties no later than ----------, 2014. District may, but is not required to, file an updated PHC statement.

3. Mediation Date. District's request to schedule a date for mediation was granted. The mediation shall take place on _____, 2014, at 9:30 a.m. at the District's offices located at Goleta Unified School District, 401 North Fairview Avenue, Goleta, California 93117. District will ensure that parking is available for Student and her representatives and the ALJ.

3. 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 should 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.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. 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. THE PARTIES SHOULD SIMULTANEOUSLY **FAX THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT THE FAXINATION LINE at 916-376-6319.**

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received 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 the evening prior to the hearing or the morning of the hearing.

1. Hearing Dates, Times, and Location. The hearing shall take place on 2014, and will continue day to day, Monday through Thursday as needed at the discretion of the ALJ. The hearing shall begin each day at 9:00 a.m. and end at 5:00 p.m., with the exception of the first day of hearing, on which day the hearing shall begin at 9:30 p.m., unless otherwise ordered.

The hearing shall take place at the District's offices located at Goleta Unified School District, 401 North Fairview Avenue, Goleta, California 93117. District will ensure that parking is available for Student and her representatives and the ALJ.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to

continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

2. Issues. The issues at the due process hearing are listed below.

a) Is Student entitled to a publicly funded neuropsychological IEE?

b) Does Dr. Simun meet District criteria for a publicly funded psychoeducational IEE?

c) Has Student demonstrated unique circumstances to justify a publicly funded IEE by Dr. Simun that falls outside District criteria for such evaluations?

3. Exhibits. Exhibits shall be pre-marked and placed in three-ring exhibit binders prior to the hearing. The parties shall use numbers to identify exhibits, but shall place the letter "S" or "D" in front of the exhibit to designate if it is a Student or District exhibit (for example, "S-5, S-6, or D-1, D-2). Each exhibit shall be internally paginated by exhibit, or all of a party's exhibits shall be Bates-stamped. Each exhibit binder shall contain a detailed table of contents. The parties shall serve their evidence binders on each other in compliance with Education Code section 56505, subdivision (e)(7).

At the hearing, each party shall supply an exhibit binder containing its exhibits for use by the ALJ, and a second exhibit binder for use by witnesses. The parties may not serve exhibits on OAH prior to the hearing. In the event of duplicate exhibits, the most legible version will be used.

The parties shall meet and confer by August 21, 2014 to delete duplicate exhibits from the exhibit binders.

The parties shall exchange resumes for each witness who is expected to testify as to their professional credentials. Notwithstanding the requirements of Education Code section 56505, subd. (e)(7), the parties shall exchange resumes and curriculum vitae not later than 24 hours before the witness is scheduled to testify.

Except for good cause shown, or unless used solely for rebuttal or impeachment, any exhibit not included in the exhibit lists and not previously exchanged shall not be admitted into evidence at the hearing unless it is supported by written declaration under penalty of perjury, and the ALJ rules that it is admissible.

4. Witnesses. Each party is responsible for procuring the attendance at hearing of its own witnesses. Each party shall make witnesses under its control reasonably available. The parties shall schedule their witnesses to avoid delays in the hearing and to minimize or eliminate the need for calling witnesses out of order. The parties shall comply with Education Code section 56505 (e)(7). 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.

The parties are ordered to meet and confer by August 21, 2014, as to the schedule of witnesses and coordinate the availability and order of witnesses to ensure that there is a witness available to testify at all times during the hearing and to ensure that the hearing is completed as scheduled.

On the first day of hearing, the parties shall provide the ALJ with one detailed hour-by-hour schedule of all witnesses expected to testify at hearing, which list shall also include an estimate of time for each party's direct and cross-examination.

Each witness will only be called once to testify, except for rebuttal purposes, and all parties shall examine the witness when the witness is first called. The District shall have witnesses available in case agreement on a witness list is not reached. The parties shall be prepared at the end of each day of hearing to discuss the witnesses to be presented the next day and the time the testimony each witness is expected to take.

The parties are encouraged to review and shorten their witness lists prior to the hearing, bearing in mind that evidence will be excluded if it is repetitive, cumulative, or insufficiently probative to justify the time it would take to hear such evidence. The ALJ has discretion to limit the number of witnesses who testify and the time allowed for witnesses' testimony.

5. Telephonic Testimony. Whether a witness may appear by telephone 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 telephone shall move in advance for leave to do so, unless the opposing party has stipulated that the witness may appear by telephone. The proponent of the witness shall provide the proposed witness with a complete set of exhibit binders from all parties, containing all of each party's exhibits, prior to the hearing; and shall ensure that the hearing room has sound equipment that allows everyone in the room to hear the witness, and the witness to hear objections and rulings. No witness will be heard by telephone unless all these requirements have been fulfilled.

[[Name of party]'s motion to allow [Witness name] to testify telephonically is granted/denied.] [[Name of party] shall provide [Name of party] with a complete exhibit binder from each party, containing all of each party's exhibits, prior to the hearing, and shall ensure that the hearing room has sound equipment that allows everyone in the room to hear the witness.]

7. Timely Disclosure of Witnesses/Exhibits. [The request of [Name of party] to delay disclosure of witnesses/exhibits until [Number of] days prior to the hearing is denied/granted, and witnesses/exhibits shall be exchanged by [Date] at [Time] a.m./p.m.] [Education Code section 56505, subdivision (e)(7), provides for disclosure of witnesses and exhibits "at least" five business days prior to the hearing.] [The OAH order of [Date],

specifically ordered the production of lists of all witnesses/documents by an earlier date, to wit: at least three business days prior to this PHC.]

9. Motions. [Rulings on motions made at PHC.] [No pretrial motions are pending or contemplated. Any motion filed after this date shall be supported by a declaration under penalty of perjury establishing good cause as to why the motion was not made prior to or during the prehearing conference of [Date].]

At present no prehearing motions are pending or contemplated, except for the District's pending motion concerning attorneys' fees. Student expects to make one or more motions *in limine* at hearing. Any prehearing motion filed after this date shall be supported by a declaration under penalty of perjury establishing good cause why the motion was not made prior to or during the prehearing conference of [DATE]. [MAY NOT BE APPROPRIATE FOR UNREPRESENTED PARTIES.]

10. Stipulations. Stipulations to pertinent facts, contentions or resolutions are encouraged. Any proposed stipulation shall be submitted to the assigned ALJ in written form.

The parties shall meet and confer by August 21, 2014 to determine legal and factual stipulations, if any, to be submitted at hearing.

11. Conduct of Counsel and Hearing Room Decorum. Counsel, all parties, and all witnesses shall conduct themselves in a professional and courteous manner at all times.

Cellular phones, pagers, recorders, and other noisemaking electronic devices shall be shut off during the hearing unless permission to the contrary is obtained from the ALJ. There shall be no texting permitted while the hearing is in session.

The ALJ shall record the hearing and the ALJ's recording is the only official record of the hearing. No person shall record or photograph the proceedings unless otherwise permitted by the ALJ.

Student's request to audio record the hearing is granted. The OAH audio recording of the hearing is the only official record of the hearing. The parties' recordings shall only be used by the parties' attorneys to assist the attorneys with the conduct of the case. The recordings may not be shared with any potential witness in the case, and may not be publicly disseminated. The parties' recorders must be turned off at all times that the ALJ has stated that the OAH recording is being taken off the record.

12. Compensatory Education/Reimbursement. Any party seeking reimbursement of expenditures shall present admissible evidence of these expenditures, or a stipulation to the amount of expenditures, as part of its case in chief. A party seeking compensatory education should provide evidence regarding the type, amount, duration, and need for any requested compensatory education.

13. Special Needs and Accommodations. A [Type of language] language interpreter [or other accommodation] is required.

At present neither party anticipates the need for special accommodation for any witness or party, or for translation services.

14. Hearing Open/Closed To the Public. [At the request of the parent, the hearing will be open to the public.]

15. 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 should 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.

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16. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: October 10, 2014

/S/

LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings