BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ALPINE UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2023060498

ORDER CLARIFYING ISSUES FOR HEARING

SEPTEMBER 6, 2023

On August 28, 2023, the parties attended a prehearing conference, called a PHC. Cecelia Rutherford, Attorney at Law, represented Student. Deborah Cesario, Attorney at Law, represented Alpine Union School District. The Office of Administrative Hearings, called OAH, subsequently issued an order following the PHC identifying the issues for hearing, as clarified by the parties after discussion with the ALJ.

On September 1, 2023, Student filed a motion to correct the issues. On September 1, 2023, OAH issued an order denying the motion without prejudice. On September 5, 2023, Student filed a motion for reconsideration and to correct the issues.

On September 6, 2023, Megan Nunez, Attorney at Law, representing Student, and Deborah Cesario, representing Alpine, appeared on the first day of hearing, among other attendees. After a lengthy discussion regarding the facts alleged in the complaint and the issues brought regarding them, the ALJ drafted the clarified issues for hearing and uploaded a statement of issues to CaseLines, OAH's electronic evidence forum, so that all parties and their representatives had access to the written revised issues for hearing. Those issues are restated below.

A free appropriate public education is referred to as a FAPE. An individualized education program is referred to as an IEP.

Student withdrew several issues in her September 1, 2023, motion to withdraw issues which was considered and confirmed by Student on the first morning of hearing before witnesses were sworn. The below issues were renumbered accordingly.

ISSUES

1. Did Alpine deny Student a FAPE during the 2021-2022 school year and extended school year, by:

a. failing to materially implement Student's educational placement, specialized academic instruction, speech and language, occupational therapy, and accommodations as offered in the January 15, 2021, IEP as amended;

b. failing to offer an appropriate general and special educational placement;

c. failing to assess Student in all areas of suspected disability, specifically in the areas of academics, speech and language, occupational therapy, adapted physical education, assistive technology; and for special circumstance instructional assistance;

d. failing to consider Dr. Robert Gray's December 1, 2021, independent psychoeducational evaluation report and recommendations at the March 7, 2022, IEP team meeting;
e. failing to develop any appropriate goals in the March 7, 2022, IEP, and by failing to develop goals in the areas of articulation, behavior, and self-care to address needs in bathroom use and Student's ability to access food from her lunch box;
f. failing to revise the January 2021 and/or March 2022 IEPs to address Student's lack of progress;
g. failing to provide a safe educational environment in that Alpine did not appropriately address bullying of Student and classroom disruption, which prevented Student from accessing her education; and
h. failing to offer appropriate services and supports in the form of a one-to-one aide and adapted physical education?

2. Did Alpine deny Student a FAPE during the 2022-2023 school year, by:

a. failing to materially implement specialized academic instruction, speech and language, occupational therapy, and accommodations as offered in the March 7, 2022, IEP through November 3, 2022, when Parent withdrew Student from school;
b. failing to assess Student in all areas of suspected disability, specifically in the areas of academics, speech and language, occupational therapy, adapted physical education, assistive technology; and special circumstance instructional assistance;
c. failing to provide a safe educational environment in that Alpine did not appropriately address bullying, which impacted Student's access to her education;

d. failing to offer an aide at school or during transportation, and failing to offer individual and increased frequency and duration for speech and language services in the March 7, 2022, IEP;
e. failing to develop any appropriate goals;
f. failing to obtain Parent consent before conducting the March 28, 2023, speech and language and May 15, 2023, academic assessments of Student;
g. denying meaningful parental participation at the May 18, 2023, IEP team meeting by refusing to answer Parent questions regarding the March 28, 2023, and May 15, 2023, assessments;
h. failing to offer an appropriate special day class in the March 9, 2023, and May 18, 2023, IEPs;
i. failing to consider Christie Himstreet's independent speech and language evaluation report and recommendations at the March 9, 2023, and May 2023 IEP team meetings; and
j. failing to offer placement at any school other than Shadow Hills Elementary School in the May 2023 IEP?

IT IS SO ORDERED.

Cole Dalton

Cole Dalton
Administrative Law Judge
Office of Administrative Hearings