BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: LONG BEACH UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013120124 ORDER FOLLOWING PREHEARING CONFERENCE

On February 10, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Elsa H. Jones, Office of Administrative Hearings (OAH). Cynthia A. Yount, Attorney at Law, appeared on behalf of the Long Beach Unified School District (District). There was no appearance of behalf of Parent or Student (collectively, Student). The ALJ called Father at the telephone number in the file, and left a voicemail requesting that he join the PHC conference call, but Father did not respond to the message. The PHC was recorded.

Based on discussion with District's counsel, the ALJ issues the following Order:

1. Hearing Dates, Times, and Location. The hearing shall take place on February 18, through February 20, 2014, and continue day to day thereafter, Monday through Thursday as needed, at the discretion of the ALJ. Unless otherwise ordered, the hearing shall begin each day at 9:00 a.m., with the exception of the first day of hearing, on which day the hearing shall begin at 1:30 p.m.

The hearing shall take place at the District's offices located at 4310 Long Beach Boulevard, Suite 2, Long Beach, California 90807.

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 was not properly notified of the hearing date or properly subpoenaed, as applicable.

2. Issues and Proposed Resolutions. The issue at the due process hearing is:

Did the Individualized Education Program (IEP) dated September 26, 2013, offer Student a free appropriate public education (FAPE) in the least restrictive environment (LRE)?

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 whether 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 consecutively numbered by Bates stamp or similar method, beginning with the first page of the first exhibit and ending with the last page of the last exhibit. Each exhibit binder shall contain a detailed table of contents. The parties shall exchange exhibit binders 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.

Unless used solely for rebuttal or impeachment, any exhibit not included in a party's final exhibit list and not previously exchanged shall not be admitted into evidence at the hearing at the request of that party, except for good cause shown, and at the discretion of the ALJ, and the ALJ rules that it is admissible.

4. Witnesses. The parties shall file with OAH and serve their final witness lists on each other in accordance with Education Code section 56505, subdivision (e)(7). 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 or calling them more than once. Neither party shall be permitted to call any witnesses not disclosed in the party's final witness list, except for good cause shown, and at the discretion of the ALJ. The ALJ has discretion to limit the number of witnesses who testify and the time allowed for their testimony.

5. Scope of Witness Examination. After the first direct and cross-examinations, each party shall be limited in examining the witness to only those matters raised in the immediately preceding examination, at the discretion of the ALJ.

6. Motions. No pretrial motions are pending or contemplated. Any motion filed after the date of this Order 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 PHC of February 10, 2014.

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

8. 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 or set to vibrate during the hearing unless permission to the contrary is obtained from the

ALJ. There shall be no texting or tweeting during the hearing, unless permission to the contrary is obtained from the ALJ.

9. Special Needs and Accommodations. There has been no request for special accommodations for any witness or party, or for interpreter services.

10. 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 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.

11. Failure to comply with this Order and with Education Code section 56505, subdivision (e)(7) may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: February 11, 2014

ELSA H. JONES
Administrative Law Judge
Office of Administrative Hearings