BEFORE THE

OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2014110365
v.	ORDER FOLLOWING PREHEARING CONFERENCE
COMPTON UNIFIED SCHOOL DISTRICT.	

On December 19, 2014, a telephonic prehearing conference (was held before Administrative Law Judge June R. Lehrman, Office of Administrative Hearings. Jim Peters, Attorney at Law, appeared on behalf of Student. Elliott Field and Thomas Madruga, Attorneys at Law, appeared on behalf of District. The PHC was recorded.

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

1. Hearing Dates, Times, and Location. The hearing is continued on District's motion and shall take place on February 4-5 and 9-12, 2015 and continuing day to day, Monday through Thursday as needed at the discretion of the ALJ. The hearing shall begin each day at 9:30 a.m. with the exception of February 9, 2015 on which day the hearing shall begin at 1:30 p.m., unless otherwise ordered.

The hearing shall take place at the District's offices located at 2300 West Caldwell Street, Compton, CA 90220.

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 and Proposed Resolutions. The issues at the due process hearing are listed below.

Did District during the 2013-14 school year, extended school year, and 2014-15 school year, deny Student a free appropriate public education by:

1. Failing to allow appropriate parental participation in the May 9, 2013, and October 31, 2014, individualized education program team meetings, specifically by

predetermining placement and services, concluding the IEP's abruptly, and ignoring parental input;

2. Failing to conduct IEP's in a timely manner prior to the beginning of the 2013-14 and 2014-15 school years;

3. Failing to offer an appropriate assessment plan, and failing to assess appropriately, in the areas of psycho-educational functioning, mental health, functional behavior, and speech and language;

4. Failing to develop appropriate goals;

5. Failing to offer appropriate parent trainings, specifically by failing to offer two conferences per year on attention deficit hyperactivity disorder, bi-polarism and related disorders;

6. Failing to offer appropriate behavioral services;

7. Failing to offer a FAPE, resulting in unreasonable suspension; and

8. Failing to offer appropriate placement at Kayne Eras Center?

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.

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. Neither party shall be permitted to call any witnesses not disclosed in the party's prehearing conference statement 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 January 23, 2015, as to the schedule of witnesses, to coordinate the availability and order of testimony 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.

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.

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.

6. Telephonic Testimony. None anticipated.

7. Timely Disclosure of Witnesses/Exhibits. Education Code section 56505, subdivision (e)(7), provides for disclosure of witnesses and exhibits at least five business days prior to the hearing.

8. Order of Presentation of Evidence. The order of presentation of evidence shall be as follows: Student's evidence followed by District's, however if a witness if to be called by both parties, the witness will be fully questioned on all issues whenever first called to the stand.

9. Motions. Student's motion to allow television and videotaping of the hearing is denied for the following reasons. Student's interest in public participation will be accommodated by opening the hearing to the public in-person. Countervailing considerations include District's opposition, the privacy rights of participants including witnesses, and the potential for interference and disruption of an orderly hearing. Balancing such interests, the ALJ denies the motion.

Student's motion to audiotape the hearing, for hearing-preparation purposes only, is granted. Such audiotapes shall be used only for review and preparation, and shall be destroyed at the conclusion of the hearing.

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

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

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

14. Hearing 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.

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.

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

IT IS SO ORDERED.

DATE: December 19, 2014

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings