BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT

V.

ASPIRE INSKEEP ACADEMY CHARTER, ASPIRE CENTENNIAL COLLEGE PREPARATORY ACADEMY, AND ASPIRE PUBLIC SCHOOLS.

OAH CASE NUMBER 2023020691

ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE

MAY 8, 2023

On May 5, 2023, Administrative Law Judge Clifford H. Woosley, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

N. Jane DeBovy, Attorney at Law, appeared on behalf of Student. Heather M. Edwards, Attorney at Law, appeared on behalf of Aspire Inskeep Academy Charter, Aspire Centennial College Preparatory Academy, and Aspire Public Schools, collectively

referred to as Aspire. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

DUE PROCESS HEARING

The hearing will take place on May 16, 17, and 18, 2023, and continue day to day 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. The parties anticipate it will take five days to complete the hearing. Additional hearing dates 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.

ISSUES AND PROPOSED RESOLUTIONS

A free appropriate public education is called a FAPE and an individualized education program is called an IEP.

The issues at the due process hearing, and proposed resolutions, as alleged in the complaint and clarified by the parties and the ALJ during the PHC are:

ISSUES

1. Did Aspire deny Student a FAPE, for the 2019-2020 regular school year and extended school year, by failing to:
    a. Convene an IEP meeting to address Student's lack of anticipated progress?
    b. Implement consented-to portions of the IEP during school closures?
    c. Provide prior written notice of Aspire's:
        i. Proposed changes to Student's specialized academic instruction and related services as of March and April 2020?
        ii. Refusal to implement all consented-to services during school closures?
        iii. Proposed changes to services, goals and accommodations in the April 2020 and May 2020 IEPs?
        iv. Refusal to provide direct support and interventions in academics and behavior during distance learning?
    d. Offer and implement appropriate specialized academic instruction in distance learning and in-person instruction?

e. Offer appropriate related services in occupational therapy, language and speech, recreational therapy, counseling, behavior support, parent counseling and training, and social skills?

f. Offer and implement positive behavioral interventions and supports, behavior intervention plan, and behavior support plan to address behaviors that interfered with Student's learning?

g. Offer and implement supplemental supports and services designed to assist Student in accessing his curriculum during distance learning?

2. Did Aspire deny Student a FAPE in the development of the April 2020 IEP by:

   a. Not including all required IEP team members?

   b. Failing to provide a clear statement of special education and related services with a description of the frequency, duration, and location of services?

   c. Not considering Parent's concerns in the development of the IEP?

   d. Predetermining its offer of placement and services for distance learning?

   e. Failing to give Parent copies of the IEP and related documents in Parent's native language?

3. Did Aspire deny Student a FAPE in the development of the May 2020 IEP by:

   a. Not including adequate statements of present levels of performance, measurable annual goals in all areas of need, and a statement of special education and related services, including the frequency, duration and location of services?

   b. Not considering Parent's concerns in the development of the IEP?

   c. Failing to address a lack of expected progress?

d. Not considering positive behavioral interventions and supports, a behavior intervention plan, and a behavior support plan to address behaviors that impeded Student's learning?

e. Predetermining its offer of placement and services for distance learning?

f. Failing to give Parent copies of the IEP and related documents in Parent's native language?

4. Did Aspire deny Student a FAPE, for the 2020-2021 regular school year and extended school year, by failing to:

   a. Convene an IEP meeting to address Student's lack of anticipated progress?

   b. Implement consented-to portions of the IEP?

      i. Provide prior written notice of Aspire's:

      ii. Proposal for Student's specialized academic instruction and related services during distance learning?

      iii. Refusal to implement all consented-to services?

      iv. Proposed changes to services, goals and accommodations in the April and May 2021 IEPs?

      v. Proposed actions as to Student's triennial reevaluations in February 2021?

   c. Provide an assessment plan within 15 days of the requested assessments in the area of functional behavior in March and April 2021?

   d. Offer and implement appropriate specialized academic instruction in distance learning and in-person instruction?

e. Offer appropriate related services in occupational therapy, language and speech, recreational therapy, counseling, behavior support, parent counseling and training, and social skills?

f. Offer and implement positive behavioral interventions and supports, behavior intervention plan, and behavior support plan to address behaviors that interfered with Student's learning?

g. Offer and implement supplemental supports and services designed to assist Student in accessing his curriculum during distance learning?

5. Did Aspire deny Student a FAPE in the development of the April/May 2021 and June 2021 IEPs by:

   a. Not including all required IEP team members?

   b. Not including adequate statements of present levels of performance, measurable annual goals in all areas of need, and a statement of special education and related services, including the frequency, duration and location of services?

   c. Not considering Parent's concerns in the development of the IEP?

   d. Failing to address Student's lack of expected progress in areas of need and in the general education curriculum?

   e. Not revising the IEP to address learning loss during school closures?

   f. Predetermining its offer of placement and services?

6. Did Aspire deny Student a FAPE, failing to comprehensively identify and assess all areas of Student's unique needs, including in:

   a. June 2021 Psychoeducational and Academic Assessments?

   b. June 2021 Language and Speech Assessment?

   c. June 2021 Occupational Therapy Assessment?

   d. May 2021 Recreational Therapy Assessment?

7. Did Aspire deny Student a FAPE, for the 2021-2022 regular school year and extended school year, by failing to:
    a. Convene an IEP meeting to address Student's lack of anticipated progress?
    b. Implement consented-to portions of the IEP?
    c. Provide prior written notice of Aspire's:
        i. Proposal as to how Student's specialized academic instruction and related services would be implemented?
        ii. Refusal to implement all consented to services?
        iii. Proposed changes to services, goals and accommodations in the September 2021 IEP, October 2021 IEP, and June 2022 IEP?
        iv. Proposed transfer of Student to a new local educational agency upon his matriculation to middle school?
    d. Offer and implement appropriate accommodations?
    e. Offer appropriate assistive devices and services?
    f. Offer and implement appropriate specialized academic instruction in distance learning and in-person instruction?
    g. Offer appropriate related services in occupational therapy, language and speech, recreational therapy, counseling, behavior support, parent counseling and training, and social skills?
    h. Offer and implement positive behavioral interventions and supports, behavior intervention plan, and behavior support plan to address behaviors that interfered with Student's learning?
    i. Offer and implement one-to-one aide support, with supervision by a board certified behavioral analyst?
    j. Offer and implement inclusion specialist services?

k. Offer and implement supplemental supports and services designed to assist Student in accessing his curriculum during distance learning?

8. Did Aspire deny Student a FAPE in the development of the September 2021 and October 2021 IEPs by:
    a. Not including all required team members?
    b. Not including adequate statements of present levels of performance, measurable annual goals in all areas of need, and a statement of special education and related services, including the frequency, duration and location of services?
    c. Not considering Parent's concerns in the development of the IEP?
    d. Failing to address Student's lack of expected progress in areas of need and in the general education curriculum?
    e. Not revising the IEP to address learning loss during school closures?;
    f. Predetermining its offer of placement and services?
9. Did Aspire deny Student a FAPE in the development of the June 2022 IEP by::
    a. Failing to timely complete Student's annual review?
    b. Not including adequate statements of present levels of performance, measurable annual goals in all areas of need, and a statement of special education and related services, including the frequency, duration and location of services?
    c. Not considering the results of the independent educational evaluations in decisions regarding the provision of FAPE?
    d. Not considering Parent's concerns in the development of the IEP?
    e. Failing to address Student's lack of expected progress in areas of need and in the general education curriculum?
    f. Not revising the IEP to address learning loss during school closures?.

g. Predetermining its offer of placement and services?

h. Not having all required team members attend, including a representative of the local educational agency responsible for the provision of FAPE?

10. Did Aspire deny Student a FAPE by failing to comprehensively identify and assess all areas of Student's unique needs, including in the:

a. September 2021 functional behavior assessment?

b. October 2021 emotionally related intensive counseling services assessment?

c. October 2021 adapted physical education assessment?

11. Did Aspire deny Student a FAPE, for the 2022-2023 regular school year and extended school year, by failing to:

a. Have an IEP in place by the start of the school year?

b. Implement consented-to portions of the IEP?

c. Offer and implement appropriate accommodations?

d. Offer and implement appropriate specialized academic instruction in distance learning and in-person instruction?

e. Offer appropriate related services in occupational therapy, language and speech, recreational therapy, counseling, behavior support, parent counseling and training, and social skills?

f. Offer and implement positive behavioral interventions and supports, behavior intervention plan, and behavior support plan to address behaviors that interfered with Student's learning?

g. Offer and implement one-to-one aide support, with supervision by a board certified behavioral analyst?

h. Offer and implement inclusion specialist services?

i. Offer and implement supplemental supports and services designed to assist Student in accessing his curriculum during distance learning?

12. Did Aspire deny Student a FAPE in the development of the September 2022 reconvened IEP and October 2022 amendment IEP by:
    a. Failing to consider the results of the independent educational evaluations in decisions regarding the provision of FAPE?
    b. Not considering Parent's concerns in the development of the IEP?
    c. Failing to address Student's lack of expected progress in areas of need and in the general education curriculum?
    d. No revising the IEP to address learning loss during school closures?
    e. Predetermining its offer of placement and services?
    f. Not having all required team members attend, including a representative of the local educational agency responsible for the provision of FAPE?
13. Did Aspire deny Student a FAPE, by failing to comprehensively identify and assess all areas of Student's unique needs, including in the:
    a. September 2021 functional behavior assessment?
    b. October 2021 emotionally related intensive counseling services assessment?
    c. October 2021 adapted physical education assessment?

A party must immediately file a written request for relief if the issues, as stated in this Order, do not reflect their understanding of the issues as clarified at the prehearing conference.

PROPOSED RESOLUTIONS

The resolutions requested by Student include: compensatory education and relates services; reimbursements; and prospective FAPE placement in general education, one-to-one aide support, inclusion specialist consultation, intensive individualized related services, one-to-one specialized academic instruction, and extended school year in an intervention program.

Aspire filed its response to Student's amended complaint on April 5, 2023. (*M.C. v. Antelope Valley Union High School Dist.* (9th Cir. 2017) 858 F.3d 1189, 1199-1200.)

EXHIBITS

The parties shall serve their exhibits on each other in compliance with Education Code section 56505, subdivision (e)(7). The parties shall upload their exhibits electronically according to the Order Setting Procedures for Filing Exhibits Electronically. 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).

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) 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. Aspire must use the letter C before the number to identify Aspire's exhibits. For example, S-1 means Student's

exhibit 1 and C-1 means Aspire's exhibit 1. 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 and additional page numbering or bates stamping should not be added.

CONTENT

Each exhibit must consist of one document. Separate documents may not be combined into one exhibit. Emails or letters may be consolidated into one exhibit if they are part of a single chain of messages. Exhibits should be in chronological order.

Parties should include resumes or curriculum vitae for each witness who is expected to testify as an expert.

Aspire's exhibits must include a copy of the school calendar for each school year in question.

Electronic copies of exhibits filed with OAH shall be filed by 5:00 PM at least five business days before the first day of hearing. Please refer to the General Order OAH issued with the Scheduling Order that contains the Order Setting Procedures for Filing Exhibits Electronically. It includes instructions for how to file exhibits electronically. Beginning three business days before the hearing, the electronic evidence system will not allow parties to upload exhibits unless permitted by the ALJ during the hearing at the ALJ's discretion.

WITNESSES

The parties shall serve their list of witnesses on each other in compliance with Education Code section 56505. 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.

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.

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 webcam. Witness ability to attend the hearing by videoconference will be discussed at the start of the hearing.

The parties are responsible for producing their own witnesses unless otherwise ordered by the ALJ. Parties shall make witnesses under their control reasonably available. The parties must schedule their witnesses to avoid delays in the hearing and to minimize or eliminate the need for calling witnesses out of order.

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

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, cumulative, or insufficiently probative to justify the time it would take to hear.

The parties are ordered to meet and confer no later than May 11, 2023. to discuss scheduling witnesses and how much time each witness will take. The parties shall discuss any issues related to counsel and witnesses appearing by videoconference for hearing and electronically viewing exhibits during the hearing, or subpoenas, if any. The parties should attempt to eliminate duplicate exhibits from their hearing exhibits. The parties shall discuss whether they can produce a written stipulation as to pertinent facts, contentions, resolutions and authenticity and admissibility of documents to shorten the length of time needed for the hearing.

As part of the meet and confer process, Aspire shall inform Student which proposed witnesses are district employees. Aspire shall also identify the witnesses on Student's list that require a subpoena. Aspire may agree to accept service for witnesses under Aspire's control or provide Student with the witness' most recent contact information.

PARTICIPANT INFORMATION FORM

Both parties have an ongoing obligation to ensure that OAH has current information on the Participant Information Form filed with OAH and shall file an updated Form as necessary. The Participant Information Form is not served upon the opposing party. The ongoing obligation to ensure that the Participant Information Form filed with OAH is current does not change the parties' statutory obligation to timely disclose their witnesses to the other party(s) at least five business days prior to hearing.

The parties must file an updated Participant Information Form to inform OAH of any changes, additions, or deletions, including the required information no later than 5:00 PM at least two business days before the first day of hearing.

Any contact information provided shall be used for the limited purpose of issuing subpoenas or for contacting a witness to attend the hearing. Any contact information 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-in-chief shall be presented first, followed by Aspire, unless otherwise ordered.

PRESENTATION OF EVIDENCE REGARDING STATUTE OF LIMITATIONS

Student bears the burden of proving by a preponderance of the evidence that Student may pursue the claims which predate the two-year statute of limitations. Therefore, on the first day of hearing, Student and Aspire shall call any and all witnesses, and present their documentary evidence, regarding any delay in the running of the statute of limitations and any application of statutory exceptions to the statute of limitations in this matter. Student will present Student's evidence first, followed by Aspire.

The parties shall call their witnesses on the running of, and exceptions to, the statute of limitations first, regardless of whether the parties will again call those witnesses later in the hearing on other issues. After both parties have presented their evidence on this issue, the ALJ will take a break in the hearing and decide whether

Student will be permitted to go forward on issues predating February 21, 2021, or whether those issues are barred by the statute of limitations.

The statute of limitations for special education due process claims in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) The statute of limitations operates to bar claims based upon facts outside of the two-year period. (*J.W. v. Fresno, supra*, 626 F.3d 431, 444-445; *Breanne C. v. Southern York County School Dist*. (M.D. Pa. 2009) 665 F.Supp.2d 504, 511-512; *E.J. v. San Carlos Elementary School Dist*. (N.D.Cal. 2011) 803 F.Supp.2d 1024, 1026, fn. 1.) Title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (l), establish two exceptions to the statute of limitations in cases in which the parent was prevented from filing a request for due process due to specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint, or by the local educational agency's withholding of information that was required to be provided to the parent.

A claim accrues for purposes of the statute of limitations when a parent learns of the injury that is a basis for the action, i.e., when the parent knows that the education provided is inadequate. (*M.D. v. Southington Board of Ed.* (2d Cir. 2003) 334 F.3d 217, 221: *M.M. & E.M. v. Lafayette School Dist.* (N.D.Cal., Feb. 7, 2012 Nos. CV 09–4624, 10–04223 SI) 2012 WL 398773, ** 17 - 19.) In other words, the statute of limitations begins to run when a party is aware of the facts that would support a legal claim, not when a party learns that it has a legal claim. (See *El Pollo Loco, Inc. v. Hashim* (9th Cir. 2003) 316 F.3d 1016, 1039; see also *M.M. V. Lafayette School District* (9th Cir. 2014) 767 F.3d 842, 858-59.)

WITNESS LISTS

The parties must provide a joint proposed witness list to the ALJ on the first day of hearing. The list should include the first and last name of the witness, which party(s) are calling the witness to testify, and include dates and time estimates of each witness' expected testimony. In the event an agreement cannot be reached, each party shall prepare a separate written list. Aspire must have witnesses available in case there is no agreement.

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 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 each witness.

SCOPE OF WITNESS EXAMINATION

Each witness will be called to testify only once, except for rebuttal purposes. All parties must examine a witness on all issues 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.

AUDIO ONLY OR TELEPHONIC TESTIMONY

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 request permission to do so before the hearing. Any party seeking to present a

witness who cannot access exhibits electronically must inform the ALJ at the beginning of the hearing.

ELECTRONIC RECORDINGS

AUDIO RECORDING

A party may request permission to make an audio recording of the hearing. Permission to make an audio recording is subject to the ALJ's discretion and based upon certain conditions. The conditions are:

1. the OAH recording is the only official recording;
2. the parties shall turn their recording device on and off at the same time that the ALJ is on and off the record to avoid recording conversations while off the record;
3. operation of 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;
5. the recording is subject to the same confidentiality as the due process hearing; and
6. participants shall not take screenshots of the videoconference nor share or publish any portion of the videoconference or audio recording.

The parties' request to record the hearing is granted, subject to these conditions.

VIDEO RECORDING

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

RECORDINGS AS EXHIBITS

Recordings may not be uploaded electronically without the ALJ's permission. 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.

The ALJ may grant or deny the request or grant the request subject to certain conditions. The party offering the recording must establish that all or a part of the recording is relevant. The ALJ may request a transcript of the portion of the recording requested or have the party offering the recording to provide an exact identifiable portion of the recording the party seeks to admit. The identities of any person speaking on the portion of the tape being introduced must be established. An ALJ may allow the opposing party to offer additional portions of a recording to establish the context, or to rebut, the recording.

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

No prehearing motions are pending or contemplated. 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 and admissibility 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 COUNSEL 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. Counsel, parties, and witnesses 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. Parties, counsel 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

A Spanish language interpreter is required. OAH will provide the interpreter.

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/Accommodations-at-OAH.

The parties are unaware of any hearing participant that requires reasonable accommodations.

HEARING CLOSED TO THE PUBLIC

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

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 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. The assigned ALJ will check for messages before the hearing.

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.

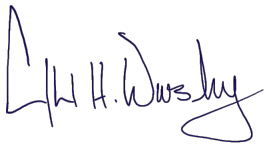
FAILURE TO COMPLY

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.



Clifford H. Woosley
Administrative Law Judge
Office of Administrative Hearings