BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

AND,

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024100588

OAH CASE NUMBER 2024060521

ORDER DENYING MOTIONS TO RESTATE ISSUES

DECEMBER 27, 2024

On November 22, 2024, the undersigned held a prehearing conference in this matter, and on November 25, 2024, issued an Order Following Prehearing Conference. That Order defined the issues to be considered at the due process hearing, now calendared for January 14, 15, and 16, 2025.

On November 27, 2024, Capistrano filed an "Opposition to Expansion of Student's Issues," contending that the ALJ erred in stating more than one issue to be considered at the hearing.

On December 2, 2024, Student filed a "Motion to Dismiss District's Claim of Complaint Amendment," arguing that Capistrano's attempt to limit the issues lacked merit.

CAPISTRANO'S OPPOSITION TO EXPANSION OF STUDENT'S ISSUES

The first issue stated in the Order Following Prehearing Conferences derives from Student's Prehearing Conference Statement, filed November 20, 2024. The first Student issue is: "May Parents require Capistrano to assess Student for his triennial review using an independent, unbiased third-party assessor instead of district-selected personnel to conduct the assessment(s)?"

Student's complaint, fairly read, alleges seven additional issues, but Student did not state those issues in his November 20, 2024, prehearing conference statement. At the PHC, Capistrano objected to the inclusion of the seven additional issues on the ground that they were not set forth in Student's statement and Capistrano had no fair notice of them. The ALJ overruled the objection and included the seven additional issues in the Order Following Prehearing Conference issued on November 25, 2024.

The instant Opposition from Capistrano essentially restates and embroiders the same objection that was overruled at the prehearing conference. Capistrano interprets the complaint narrowly to allege only the first issue, and labels the additional seven issues "background" provided by Student only to explain the first issue.

Capistrano does not recognize that the complaint is from a self-represented litigant and was written by a Parent whose first language is not English. However, the ALJ is encouraged to interpret such a complaint more liberally than Capistrano does. (See *Petrosyan v. Prince Corp*. (2013) 223 Cal.App.4th 587, 594, fn.3 ["When a litigant is self-represented, a judge has the discretion to take reasonable steps to enable the litigant to be heard." (Advisory Com. com., Cal. Code Jud. Ethics, canon 3B(8).)"). Read liberally, the complaint in this matter shows that Student intended to litigate the additional issues, not just provide them for background.

STUDENT'S STATEMENT OF ISSUES

On the day after the prehearing conference, Student filed a prehearing conference statement that not only asserted the additional issues addressed here; it also may have proposed still other issues on the ground that they were being asserted in the tardy prehearing conference statement. In this pleading Student may be attempting to restate issues, and is attempting to extend a reimbursement request that is among the resolutions proposed by the complaint

However, the issues in a due process hearing under the Individuals With Disabilities Education Act are ultimately governed by the complaint, not by a prehearing conference statement. (20 U.S.C. § 1415 (f)(3)(B).) To the extent that Student's new pleadings seek to expand the issues, that attempt must fail.

ORDER

1. Capistrano's request to limit the issues stated in the Order Following Prehearing Conference is denied.
2. To the extent that Student's "Motion to Dismiss District's Claim of Complaint Amendment" seeks to rephrase or expand the issues in the Order Following Prehearing Conference, that request is denied.

3.The hearing will proceed on the issues as stated in the Order Following Prehearing Conference.

Charles Marson

Charles Marson

Administrative Law Judge

Office of Administrative Hearings