

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2009050088

ORDER FOLLOWING PREHEARING
CONFERENCE

On January 11, 2010, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Susan Ruff, Office of Administrative Hearings (OAH). Tania Whiteleather, Esq., appeared on behalf of Student and Student's parents (Student). Sundee Johnson, Esq., appeared on behalf of the Irvine Unified School District (District). The PHC was recorded.

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

1. Hearing Dates, Time, and Location. The hearing shall began at 9:30 a.m. on January 19, 2010, and continue as necessary on January 25 and 26, 2010, and March 9, 2010. The location of the hearing shall be: Office of Administrative Hearings, 23046 Avenida De La Carlota, Suite 750, Laguna Hills, California, 92653.

2. Issues. The issues for the due process hearing, as clarified by the parties and the ALJ at the PHC, are as follows:

Is Student entitled to compensatory education based on the District's denial of a free appropriate public education (FAPE) to Student from March 23, 2009, through August 24, 2009? If so, what is the appropriate type and amount of compensatory education?

3. Exhibits. Exhibits shall be pre-marked and placed in three-ring exhibit binders prior to the hearing. Each party may use numbers to designate exhibits. Student shall begin numbering exhibits at S-81 and the District shall begin at D-30. 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. Each party shall serve an exhibit binder containing its respective exhibits on the other party within the time required by law. The parties shall not serve the exhibits on OAH prior to the hearing. Instead, on the first day of hearing, the parties shall supply an exhibit binder containing their respective exhibits for use by the ALJ, and a second exhibit binder for use by witnesses.

4. Witnesses. Each party is responsible for procuring the attendance at hearing of its own witnesses. The District has agreed to make District employees available to testify

at the hearing in Student's case-in-chief upon reasonable notice without the need for a subpoena.

5. Telephonic Testimony. Student requested and received permission to call Student's expert witness Dr. Passaro to testify telephonically. Student shall provide Dr. Passaro with copies of all exhibits in the exhibit binders for each party, including the binders entered into evidence in the first part of this bifurcated proceeding, prior to his testimony. No other telephonic testimony is anticipated by either party at this time.

6. Motions. No pretrial motions are pending or contemplated. Any motion filed after this date 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 January 11, 2010.

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

8. Interpreters, Special Needs and Accommodations. Neither party anticipates any need for interpreters or special accommodations for any party or witness.

9. Hearing Closed To the Public. At the request of the parents, the hearing will be closed to the public.

10. Settlement. The parties are encouraged to continue their attempts 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. If a settlement is reached five days or fewer than five days before the due process hearing is scheduled to begin, the parties shall, in addition, immediately inform OAH of that fact by telephone at (916) 263-0880. IF A FULL AND FINAL SETTLEMENT IS REACHED AFTER 4:30 P.M. ON THE LAST BUSINESS DAY PRIOR TO HEARING (THURSDAY, JANUARY 14, 2010), THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035, AND SHALL ALSO LEAVE CELLULAR PHONE NUMBERS OF COUNSEL FOR EACH PARTY.

IT IS SO ORDERED.

Dated: January 12, 2010

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings