

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011080592

ORDER DENYING DISTRICT'S
MOTION FOR AN ORDER
DIRECTING STUDENT TO CLARIFY
AND CONSOLIDATE ISSUES

On August 16, 2011, Parents on behalf of Student (Student) filed a Request for Due Process Hearing (original complaint) in OAH case number 2011080592, naming Garden Grove Unified School District (District) as respondent. On October 31, 2011, Student filed an amended complaint (AC) in the First Case.

The AC alleged five issues: (1) the District failed to provide services and placement for Student that were appropriate to meet his unique needs during school year 2009-2010; (2) the IEP goals and objectives were not appropriate from November 2009 through February 2010; (3) the IEP goals failed to meet high expectations of progress as the goals failed to conform with the California Content Standards for school year 2009-2010; (4) the District failed to provide Student with research-based instructional programs in his IEP for school year 2009-2010;¹ and (5) the District failed to provide Student with appropriate ABA services. The AC did not include two issues from Student's original complaint involving (a) the failure by the District to provide prior written notice of proposed changes to Student's IEP, and (b) the District failing to provide Parents with an opportunity to participate in decisions involving Student's education. The AC did not contain issues of prior written notice or infringement of parental participation.

On November 15, 2011, Student filed a pleading entitled "Parents of Petitioner's (I) Parents' Response to District's Response (II) Parents filing opposition to District Request to reconsider order denying Motion to Consolidate and request for continuance of Due Process Hearing with Amended Complaint per the current hearing dates." In that pleading, Student lists the issues in the case and added the issues of prior written notice and parental participation to the five issues alleged in the AC.

¹ Student's allegations on this issue refer to the Applied Behavior Analysis (ABA) services being provided by the District.

On December 9, 2011, the District filed its motion for an order directing Student to clarify and consolidate issues for hearing. The District seeks an order requiring Student to file a new amended complaint outlining all issues being alleged against the District.

Following the filing of the motion, Student filed a Prehearing Conference Statement on December 16, 2011, listing seven issues to be decided at the Due Process hearing including prior written notice and parental participation.

Student has filed numerous repetitive pleadings which list a number of issues which they are alleging. Thus, there is merit to the District's confusion as what issues Student seeks to have heard at the Due Process Hearing. Section 56502, subsection (c) (1) (C) of the Education Code requires that the due process hearing request contain "[a] description of the nature of the problem of the child." The purpose of this statute is to permit the respondent to be aware of what is being alleged against it.

One of the purposes of a Prehearing Conference (PHC) is to determine which issues will be litigated at the hearing based on those issues alleged in the complaint.² Thus, the proper place to seek clarification is at the PHC, which is scheduled for December 21, 2011.

Accordingly, the District's motion for an order directing Student to clarify and consolidate issues is denied without prejudice.

IT IS SO ORDERED.

Dated: December 16, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings

² See Amended Scheduling Order dated October 31, 2011, at p. 2, which states: . A prehearing conference is a telephonic conference held between the Administrative Law Judge and the parties to discuss and clarify the due process hearing issues, witnesses, and other prehearing matters.