

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013060620

ORDER GRANTING STUDENT'S
REQUEST FOR TELEPHONIC
TESTIMONY

On November 19, 2013, Student filed a request for telephonic testimony for the hearing which is scheduled to reconvene on December 3, 2013. Student has requested that Dr. Nancy Markel be allowed to testify by telephone. On November 21, 2013, the District filed a response to Student's request indicating agreement on condition that Student comply With OAH requirements for telephonic testimony.

APPLICABLE LAW

Whether a witness may appear by telephone 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 telephone shall move in advance for leave to do so, unless the opposing party has stipulated that the witness may appear by telephone. The proponent of the witness shall provide the proposed witness with a complete set of exhibit binders from all parties, containing all of each party's exhibits, prior to the hearing; and shall ensure that the hearing room has sound equipment that allows everyone in the room to hear the witness, and the witness to hear objections and rulings. No witness will be heard by telephone unless all these requirements have been fulfilled.

ORDER

Good cause exists to allow Dr. Markel to testify by telephone. The District consents to such testimony. Therefore, Dr. Markel shall be allowed to testify by telephone on condition that:

1. Student's counsel shall provide the witness with a complete set of exhibit binders from all parties, containing all of each parties exhibits, prior to the hearing; and
2. The District shall ensure that the hearing room has sound equipment that allows everyone in the room to hear the witness, and the witness to hear objections and ruling.

IT IS SO ORDERED.

Dated: November 25, 2013

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings