

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF
EDUCATION, ET AL.

OAH CASE NO. 2010110325

AMENDED ORDER SUSTAINING
LACOE'S OBJECTION TO THE
RAISING OF NEW ISSUES IN
PETITIONERS' CLOSING BRIEF

This matter came on for a due process hearing (hearing) on February 9-10, 2011. The sole issue heard was: was Student denied a free appropriate public education (FAPE) because he was not provided appropriate educationally related mental health services from October 9, 2010 to November 9, 2010?¹

At the close of testimony on February 10, 2011, Student's counsel presented an oral closing argument. During that argument, Student attempted to raise issues outside of the single issue which was the subject of the hearing. The ALJ sustained Respondents' objections to the raising of new issues and clarified that the only issue to be decided is regarding whether Student was provided appropriate educationally related mental health services from October 9, 2010, to November 9, 2010, when Student was at juvenile hall.

On February 24, 2011, Student filed a 25 page closing brief which raises a number of issues in addition to the sole issue which was the subject of the hearing. These issues include the appropriateness of the Administrative Placement made by the Los Angeles County Office of Education (LACOE) including procedural violations of the Individuals with Disabilities Education Act (IDEA); inappropriate counseling services given to Student during school year 2009-2010; and the appropriateness of a triennial assessment conducted by LACOE.

On February 25, 2011, LACOE filed an objection to Student's closing brief on grounds that it raises new issues and facts outside the statute of limitations period. LACOE requests that the ALJ not consider these new issues or factual allegations involving those issues. Student filed an opposition to the objection on February 28, 2011. An order sustaining LACOE's objection was issued on February 28, 2011 prior to receipt of the opposition. The ALJ now issues this amended order after considering Student's opposition.

¹ The January 26, 2011 Prehearing Conference order listed two issues for hearing. At the first day of hearing after hearing oral arguments and considering written argument as to Respondents' motions to dismiss the second issue, the ALJ dismissed the second issue in its entirety.

As the ALJ stated on February 10, 2011, the only issue to be decided is a narrow one involving whether Student was denied a FAPE because he did not receive appropriate educationally related mental health services while he was in juvenile hall from October 9, 2010 to November 9, 2010. Student's complaint fails to allege any procedural violations of the IDEA and Student did not raise procedural issues in his complaint nor in his closing oral argument made at the close of testimony. LACOE had no notice that such issues were going to be raised. Thus, LACOE's objection to the raising of new issues is sustained.

IT IS SO ORDERED.

Dated: March 7, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings