

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011040670

ORDER DENYING STUDENT'S
MOTION TO REOPEN HEARING AND
FOR JUDICIAL NOTICE OF BOARD
POLICIES/ADMINISTRATIVE
REGULATIONS

On August 23, 2011, Administrative Law Judge (ALJ) Carla L. Garrett, Office of Administrative Hearings, held a due process hearing in this matter. At the close of hearing, the ALJ granted the parties an opportunity to submit closing briefs by September 9, 2011. After the parties submitted closing briefs on September 9, 2011, the record was closed, and the matter was submitted. On September 9, 2011, Student also filed a "Motion to Reopen the Hearing and For Judicial Notice of Board Policies/Administrative Regulation." Student attached to her motion a copy of District's Administrative Regulation 5125 which addresses the subject of student records. Student advised in her motion that she retrieved the regulation from District's website. Student attached no declaration under penalty of perjury explaining why she did not or could not present the regulation at the time of hearing.

On September 14, 2011, District filed an opposition to Student's motion contending, among other things, Student should have submitted the regulation during her case-in-chief, and has not established why she failed to do so.

APPLICABLE LAW AND DISCUSSION

Education Code section 56505, subdivision (e)(7), provides for the disclosure of witnesses and exhibits at least five business days prior to the hearing. In addition, the ALJ advised in the July 20, 2011 Order Following Prehearing Conference in this matter that any exhibit not included in the exhibit lists, and not previously exchanged, shall not be admitted into evidence except for good cause shown.

Student provided no good cause in her motion for why she did not include the regulation on her exhibit list, exchange the regulation at least five days prior to hearing, or why she did not present the regulation at the hearing. Student simply advised in her motion that she retrieved the regulation from District's website, and that it was District that had an affirmative duty to advise the ALJ of the regulation at the hearing. Student included no authority to support her contention. In addition, Student included no explanation under penalty of perjury for why she did not retrieve the regulation from the website long before the hearing.

For the foregoing reasons, Student's "Motion to Reopen the Hearing and For Judicial Notice of Board Policies/Administrative Regulation" is denied.

IT IS SO ORDERED.

Dated: October 3, 2011

/s/

CARLA L. GARRETT
Administrative Law Judge
Office of Administrative Hearings