

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011080031

v.

VICTOR VALLEY UNION HIGH SCHOOL
DISTRICT,

VICTOR VALLEY UNION HIGH SCHOOL
DISTRICT,

OAH CASE NO. 2011080382

v.

PARENT ON BEHALF OF STUDENT.

ORDER DENYING IN PART
STUDENT'S MOTION FOR
SANCTIONS AND/OR SHOW CAUSE
ORDER AND REQUIRING THE FILING
OF A RESPONSE BY THE DISTRICT

On July 28, 2011, Parent on behalf of Student (Student) filed a Due Process Request naming the Victor Valley Union High School District (District), the Desert Mountain Special Education Local Plan Area (SELPA), the San Bernardino County Superintendent of Schools (Superintendent), and the San Bernardino County Education Support Services Division (all educational entities are collectively referred to here as respondents).¹ On August 8, 2011, the District filed a complaint naming Student as respondent. OAH found Student's complaint insufficient in an Order dated August 15, 2011. Student thereafter filed an amended complaint on August 31, 2011. The two cases were consolidated by OAH by an order issued on September 23, 2011.

In the Student filed case, Student filed a motion for stay put on August 1, 2011. In his motion, Student requests placement at the Lakeview Middle School pursuant to the last implemented Individualized Education Program (IEP) dated October 23, 2011. On August 4, 2011, the District filed its opposition on grounds that the proper placement would be Victor

¹ On October 26, 2011, OAH dismissed the San Bernardino County Education Support Services Division as a party to this matter.

Valley High School (VVHS) as Student was progressing to the next grade. On August 16, 2011, the Office of Administrative Hearings (OAH) issued an order stating:²

Student's stay put for the duration of this proceeding is as follows:

- (a) Placement at Victor Valley High School in the ninth grade;
- (b) four 45-minute sessions of specialized academic instruction per day;
- (c) occupational therapy services for one 45-minute session per week;
- (d) speech and language services for one 30-minute session per week;
- (e) a one-to-one aide for Student's entire school day to be provided by a District aide;
- (f) general education instruction with specified accommodations, modifications, and adaptations for three 45-minute class periods (physical education, an elective, and science) per day by general education staff in a general education setting;
- (g) one 30-minute session of individual counseling; and
- (h) ten hours of non-public agency (NPA) services to supervise the transition from NPA one-to-one aide services to District one-to-one aide services.

On October 24, 2011, Student filed a pleading entitled "Request for Sanctions, Order to Show Cause." Student bases his motion on (1) the District's refusal to comply with the August 16, 2011 order of OAH denying Student's motion for stay put, and (2) the attorneys for respondents have acted maliciously and in bad faith. As of this date, the respondents have failed to file a response.

Student brought a previous motion alleging misconduct on behalf of respondents' attorneys also on October 24, 2011, requesting an order from OAH to remove the attorneys from these matters. After due consideration, OAH denied Student's motion on October 26, 2011. In its order, OAH noted that "Student's motion contains hearsay evidence and is designed primarily to harass the District, SELPA, and Superintendent's Office and delay this matter."

Student's present motion as to the alleged conduct of respondents' attorneys basically repeats the other October 24, 2011 motion. Accordingly, Student's motion for sanctions and a show cause order relating to his second allegation is hereby denied. Student is given notice that he may face sanctions for bringing another motion on these same grounds.

As to Student's grounds that the District has failed to comply with the August 16, 2011 order listing what stay put is, the District is ordered to file a response, including admissible evidence to support its position, to Student's motion as to whether or not the

² August 16, 2011 Order, p.3

District is in compliance with OAH's August 16, 2011 order, within five business days from the date of this order.

IT IS SO ORDERED.

Dated: November 4, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings