

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FULLERTON ELEMENTARY SCHOOL  
DISTRICT.

OAH CASE NO. 2014010540

ORDER DENYING STUDENT'S  
MOTION TO ALLOW CAMERAS IN  
THE HEARING ROOM, WITHOUT  
PREJUDICE

On January 14, 2014, Student filed a request for due process (complaint), naming Fullerton Elementary School District (District). The Office of Administrative Hearings (OAH) issued a scheduling order setting the matter for both expedited and non-expedited mediations, prehearing conferences, and hearings.

On January 22, 2014, Student filed a motion to allow television and/or video cameras in the hearing room, for media coverage of the due process proceeding. On January 27, 2014, District filed opposition.

APPLICABLE LAW

The California Administrative Procedure Act's Adjudication Bill of Rights, at Government Code section 11425.20, sets forth the general public policy that administrative hearings are to be open to the public, subject to the authority of the administrative law judge (ALJ) to order closure of the hearing, or make other orders, to assure fairness, continued protection against revelation of privileged or confidential information, or protect minor witnesses or witnesses with developmental disability. However, in special education, due process hearings are closed to the public unless a student's parents exercise their right to open the hearing to the public (34 C.F.R. § 300.512(c)(2) (2006)).

California Code of Regulations, title 1, section 1030, subdivision (c), provides that the ALJ has discretion to grant a request by a party or interested person to film, photograph, or record the administrative hearing. California Rules of Court, rule 1.150, provides guidance to the ALJ's exercise of discretion (Rule 1.150).

Rule 1.150, subsection (e), addresses media coverage of a court proceeding. The rule refers to a request made by the media. "Media" or "media agency" is "any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, in-house publication, professional journal, or other news-reporting or news-gathering agency" (Cal. Rules of Court, rule 1.150(b)(2)). The rule lists 19 factors to be considered by the ALJ in exercising discretion,

including the effect upon witnesses, confidentiality and privacy rights, the maintenance of orderly conduct, and the type and placement of media personnel and equipment. (Cal. Rules of Court, rule 1.150(e)(3).)

## DISCUSSION

In the complaint, Student's parents chose to open the due process hearing to the public. In his motion, Student requests an order allowing the presence of a television or video camera in the due process hearing room to facilitate media coverage of the proceeding. The motion makes a general assertion that the community is interested in the District's conduct and, as such, media should be permitted to record or broadcast the proceedings. In support of his request, Student cites rule 1.150 and, further, provides suggestions as to appropriate placement of the proposed camera and personnel.

An informed exercise of discretion requires the ALJ to involve the requesting media agency, as well as the parties, in a thorough discussion of contemplated witnesses, the limitations of the hearing venue, types of equipment, media personnel, security, and the orderly conduct of the proceeding. OAH has not received any request from a media agency. Student's motion does not make reference to any media agency that intends on filming or broadcasting the due process proceeding. Therefore, there are no facts upon which to exercise discretion regarding media coverage.

At the scheduled prehearing conferences, the ALJ assigned to the hearing may consider a request to allow television or video cameras in the hearing room. At that time, the ALJ will be aware of the contemplated witnesses, have an opportunity to inquire regarding the hearing venue, and be able to seek input from the parties' representatives. Student should be prepared to specify exactly which media outlet is interested in attending and the exact type of access that outlet is requesting. This will facilitate a knowledgeable discussion and enable the ALJ to engage in a properly considered exercise of discretion.

For the reasons stated above, Student's motion to allow television or video cameras in the hearing room is denied, without prejudice.

Dated: January 28, 2014

/s/

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CLIFFORD H. WOOSLEY  
Administrative Law Judge  
Office of Administrative Hearings