

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010010587

ORDER FOLLOWING PRE-HEARING
CONFERENCE

On March 29, 2010, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) June R. Lehrman, Office of Administrative Hearings (OAH). Parent appeared on Student's behalf, unrepresented by counsel. Mary Kellogg, Attorney at Law, appeared on behalf of District. The PHC was recorded.

Based on discussion of the parties, the ALJ issues the following order:

1. Hearing Dates, Times, and Location. On parent's motion, and for good cause shown, the original hearing dates of April 5 and 6, 2010 are continued one day to April 6 and 7, 2010. The hearing shall begin each day at 9:30 a.m. and end at 4:30 p.m. at 15350 Sherman Way, Suite 300, Van Nuys, CA 91406, Room VN 2.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

2. Issues and Proposed Resolutions. The issues at the due process hearing are those alleged in the due process complaint, as clarified by the parties and the ALJ at the PHC:

a) Were Student's home/hospital instruction and related services implemented appropriately, specifically did District fail to appropriately follow Student's doctors' instructions?

b) Does District owe compensatory education for its alleged failure to provide home/hospital instruction and related services?

3. Exhibits. Each party shall serve its respective exhibits on the other party by 5:00 p.m. on March 29, 2010. Prior to the hearing, Exhibits shall be pre-marked and placed in three-ring exhibit binders. Each exhibit binder shall contain a detailed table of contents. Student shall use numbers and District shall use letters to identify exhibits. Each exhibit shall be internally paginated, by exhibit, or all of a party's exhibits shall be Bates stamped. At the hearing, the parties are to supply an exhibit binder containing their respective exhibits for use by the ALJ, and a second exhibit binder for use by witnesses. The parties may not serve exhibits on OAH prior to the hearing. In the event of duplicate exhibits, the most legible version will be used.

Except for good cause shown, or unless used solely for rebuttal or impeachment, any exhibit not included in the exhibit lists and not previously exchanged shall not be admitted into evidence at the hearing unless it is supported by written declaration under penalty of perjury, and the ALJ rules that it is admissible.

4. Witnesses. Each party is responsible for procuring the attendance at hearing of its own witnesses. Each party shall make witnesses under its control reasonably available. The parties shall schedule their witnesses to avoid delays in the hearing and to minimize or eliminate the need for calling witnesses out of order. Neither party shall be permitted to call any witnesses not disclosed at the prehearing conference except for good cause shown, supported by written declaration under penalty of perjury, and at the discretion of the ALJ.

The following witnesses will be called to testify by Student:

[Redacted]

District may call any of the witnesses identified on its Witness List dated March 25, 2010.

5. Telephonic Testimony. Parent's tentative motion to have witness [Redacted] testify telephonically is denied. District objects, and represents this witness is a District employee whose appearance can be obtained. District is hereby ordered to make the witness available.

6. Timely Disclosure of Witnesses/Exhibits. Education Code section 56505, subdivision (e)(7), provides for disclosure of witnesses and exhibits at least five business days prior to the hearing.

7. Motions. No pretrial motions are pending or contemplated. Any motion filed after this date shall be supported by a declaration under penalty of perjury establishing good cause as to why the motion was not made prior to or during the prehearing conference.

8. Stipulations. Stipulations to pertinent facts, contentions or resolutions are encouraged. Any proposed stipulation shall be submitted to the assigned ALJ in written form.

9. Conduct of Counsel and Hearing Room Decorum. Counsel, all parties, and all witness shall conduct themselves in a professional and courteous manner at all times. Cellular phones, pagers, recorders, and other noisemaking electronic devices shall be shut off or set to vibrate during the hearing unless permission to the contrary is obtained from the ALJ.

10. Reimbursement. Any party seeking reimbursement of expenditures shall present admissible evidence of these expenditures, or a stipulation to the amount of expenditures, as part of its case in chief.

11. Special Needs and Accommodations. No accommodation is required by either party.

12. Settlement. The parties are encouraged to continue their attempts to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If a settlement is reached five days or fewer than five days before the due process hearing is scheduled to begin, the parties shall, in addition, immediately inform OAH of that fact by telephone at (916) 263-0880. IF A FULL AND FINAL SETTLEMENT IS REACHED AFTER 5:00 P.M. THE DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035, AND SHALL ALSO LEAVE CELLULAR PHONE NUMBERS OF EACH PARTY/COUNSEL FOR EACH PARTY. The ALJ will check for messages the evening prior to the hearing and the morning of the hearing.

13. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

Dated: March 29, 2010

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings