

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014120055

ORDER DENYING MOTION TO
STRIKE PORTIONS OF STUDENT'S
BRIEF EXCEEDING 35 PAGES,
DENYING REQUEST FOR REPLY
BRIEF, AND GRANTING REQUEST
TO STRIKE REFERENCE TO
WITNESS WHO DID NOT TESTIFY

On June 4, 2015, Sacramento City Unified School District filed a motion to strike portions of Student's closing brief that exceed the page limit set by the undersigned Administrative Law Judge at the conclusion of the hearing or, in the alternative, be permitted to submit a reply brief. Sacramento City also asked to strike a reference in Student's closing brief attributed to a witness who did not testify. On June 5, 2015, Student filed an opposition to the motion to strike.

At the hearing's conclusion, the undersigned ALJ permitted written closing briefs to be submitted and limited the length to 35 pages not including the optional chronology. All argument was to be included in the 35 pages. Student's counsel asked permission to submit an unpublished opinion as an appendix. That request was granted but no request to submit additional argument beyond the 35 page limit was granted.

Student's closing brief was 36 pages, with an additional two page appendices of argument regarding a residency claim. Student also submitted the optional chronology that did not count toward the page limit. In sum, Student submitted three pages beyond the page limit imposed during the hearing. Student's closing brief also attributed testimony to Jim Downing who did not testify. Student clarified in the opposition that the statement was mistakenly attributed to Mr. Downing.

In the motion to strike, Sacramento City argued that it worked diligently to limit its brief to 35 pages, leaving out additional information and argument it considered relevant to comply with the ALJ's directive. This assertion is odd in light of the fact that Sacramento City's closing brief was 37 and not 35 pages as indicated. Therefore, Sacramento City's closing brief was two pages beyond the page limit imposed during the hearing.

Parties are expected to comply with the page limits imposed on written closing briefs. Parties who disregard these instructions do so at the risk that some and potentially all of their closing argument will be stricken by the ALJ. The undersigned ALJ reviewed both briefs and determined that they contain approximately the same amount of substantive information. In this case, after carefully considering the options, both closing briefs as submitted will be considered. Both parties are on notice that ALJ orders are not discretionary and a similar result is unlikely in the future.

ORDER

1. Sacramento City's motion to strike portions of Student's closing brief that exceeds 35 pages is denied.
2. Sacramento City's request to submit a reply brief is denied.
3. Sacramento City's request to strike the reference to Jim Downing's testimony is granted.

IT IS SO ORDERED.

DATE: June 11, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings