

DATE

NAME
ADDRESS

VIA FACSIMILE TRANSMISSION FOLLOWED BY ELECTRONIC MAIL
(Facsimile transmission nums.: _____)

Re: _____, *Case No.* _____

NOTICE OF SCHEDULED PRE-HEARING CONFERENCE

Dear Interested Parties:

You have been notified that I have been appointed as hearing officer to the above-referenced case. A pre-hearing conference in this matter has been scheduled for

_____.

On the appointed date and time, I will initiate the telephone conference and call you at your office number. Should you anticipate not being in your office on the appointed date and time, please provide me with an alternative number where you can be reached.

Please be further advised that the purpose of this letter is two-fold. First, to advise you of the various matters that I will want to discuss with you during the pre-hearing conference. (See attached Pre-Hearing Conference Agenda.) Second, to provide you with the opportunity before the teleconference to confer with your client, and/or each other, and take such other steps as may be necessary in order to meaningfully respond to, or otherwise address, these matters.

Subsequent to the pre-hearing conference, I will prepare a detailed order of what has been agreed upon and determined during the conference. You will receive it within three (3) business days after the pre-hearing conference. Should you have any suggested corrections or additions to the order, you are to advise me of them immediately, in writing, and I will address them promptly. At the commencement of the hearing, the order and all subsequent correspondence relating to it will be placed on the record (as exhibits of this hearing officer).

It would be helpful if I were provided with a copy of the student's IEP being appealed prior to the pre-hearing conference. I thank you in advance for your anticipated cooperation. I remain,

Very truly yours,

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Pre-hearing Conference Agenda

The following matters will be discussed / reviewed during the pre-hearing conference (not necessarily in the order listed below):

IHO:

1. Are there any objections to the appointed hearing officer?
2. If so, how will the objection(s), if any, be handled?

Procedural Safeguards:

1. Will the parties be represented by counsel?
2. Do the parents want the hearing open or closed?
3. Should the parent elect to have a closed hearing, in addition to the attorneys, what other persons will be allowed to remain in the hearing room?
4. Will the student who is the subject of the hearing be present?
5. Does the parent elect an electronic findings of fact and decision?

Issues / Relief Sought:

1. Clarify the issue(s) identified by the moving party and the relief sought.
2. Has the local educational agency (“LEA”) filed a response to the due process complaint?
3. Is there a sufficiency challenge to the due process complaint?
4. Confirm that the hearing officer has jurisdiction to hear the issues and grant the relief sought.
5. Discuss whether there will be any stipulation of facts.
6. Is an expedited hearing warranted?
7. Discuss whether pre-hearing / post-hearing memoranda will be submitted.

Hearing Procedures:

1. Confirm the hearing date, time and location.
2. Confirm whether the allotted time for the hearing is realistic.
3. Are any continuances of the 45-day timeline anticipated?

Review Evidentiary Issues:

1. Discuss by when the parties must exchange exhibits and list of witnesses (including the “general thrust” of the witnesses’ testimony).
2. Exhibits
 - a. It is my desire to avoid duplication of exhibits. Accordingly, I ask that you discuss amongst yourselves the exhibits you propose to introduce during the hearing prior to the disclosure deadline and identify which exhibits will be introduced as joint exhibits.
 - b. All exhibits must be marked prior to the hearing date and an exhibits list generated. Petitioners’ exhibits should be identified as “P” followed by the exhibit number. Each page of the exhibit should be numbered as well. For example, if the IEP is to be the parents’ first exhibit and it consists of seven pages, each page should be marked as follows: P 1-1, P 1-2, P 1-3, etc. The LEA [Respondent] exhibits should be identified as “R” followed by the exhibit number. Again, each page of the exhibit should be numbered as in the example above. Joint exhibits should be identified as “JE” followed by the exhibit number. Each page of the exhibit should also be numbered.
 - c. When exchanging disclosure amongst yourselves, I ask that a courtesy copy of the exhibits and the exhibits list be mailed directly to me (with the possible exception of exhibits objected to by either party). The original submission must be filed with the SHO.
3. Discuss who bears the burden of persuasion?
4. Discuss who bears the burden of production?
5. Discuss whether either party has, or anticipates a problem with, witnesses or records, e.g., the need to compel witnesses or the production of documents?
6. Discuss whether there are any pre-hearing motions and/or requests.

- a. Extension of the 45 day time line
 - b. Motion to Dismiss
 - c. Motion for Recusal
 - d. Clarification of “stay put”
 - e. Access to Records
7. Discuss whether the parties anticipate submitting a written opening and/or closing statement and, if so, by when.

Other Due Process Complaints:

1. Discuss whether, to the extent the parties are aware, the student is/was the subject of another due process complaint with another hearing officer.
2. Discuss whether, to the extent that the parties are aware, there are any prior decisions that might affect the present matter.

Special Accommodations:

1. Discuss whether any special accommodations or interpreter services are necessary for any parties, representatives, and/or witnesses.

Other:

1. Discuss whether a date and time should be set for a second pre-hearing conference.
2. Discuss any other pertinent issues that the parties might have relating to the hearing.