BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016041016
v.	ORDER FOLLOWING PREHEARING CONFERENCE
BENICIA UNIFIED SCHOOL DISTRICT.	

On June 6, 2016, a telephonic prehearing conference was held before Administrative Law Judge Dena Coggins, Office of Administrative Hearings. Tania Whiteleather, Attorney at Law, appeared on behalf of Student. Ms. Whiteleather's assistant, Patti Schiffner, was in the room with Ms. Whiteleather during the PHC. Jan Tomsky, Attorney at Law, appeared on behalf of Benicia Unified School District. The PHC was recorded.

Based upon discussion with the parties, the ALJ issues the following order:

1. Request for Continuance. On June 6, 2016, the parties filed an initial joint request for continuance of the mediation, prehearing conference, and due process hearing dates.

A due process hearing must be conducted and a decision rendered within 45 days of receiving notice of the due process complaint unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including proximity to the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

Good cause being found, the request for continuance is granted. All dates are vacated and the matter is continued to the following dates:

Mediation:	June 14, 2016, at 9:30 a.m.
Prehearing Conference:	August 22, 2016, at 3:00 p.m.
Due Process Hearing:	August 30, 2016, at 9:30 a.m., August 31 and September 1, 2016, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed, at the discretion of the ALJ.

The hearing shall take place at Benicia's office located at 350 East K Street, Benicia, CA 94510. Benicia shall provide a facility for the hearing that fully complies with the Americans with Disabilities Act of 1990 (42 U.S.C.A. § 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), the Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and all laws governing accessibility of government facilities to persons with disabilities. Benicia has not certified it will provide a facility that complies with the law. Benicia shall inform OAH within two days of the date of this order it is able to certify that it will provide a facility that complies with the law.

2. Witnesses. The parties shall 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.

3. Settlement. The parties are encouraged to continue working together 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 PHC or hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IT IS SO ORDERED.

DATE: June 7, 2016

DocuSigned by:

10818D502AB344C…

DENA COGGINS
Administrative Law Judge
Office of Administrative Hearings