BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: SAN BRUNO PARK SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015110053 ORDER FOLLOWING PREHEARING CONFERENCE; GRANTING REQUEST FOR CONTINUANCE; AND SETTING MEDIATION, PREHEARING CONFEREN-CE AND HEARING DATES

On November 16, 2015, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Shawn Olson Brown, Attorney at Law, appeared on behalf of San Bruno Park School District. Mother appeared on behalf of Student. The PHC was recorded.

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

1. Student's Request for Continuance. This matter was set to begin hearing on November 24, 2015. On November 13, 2015, Student filed a request for continuance on the grounds that Student was unavailable for hearing due to out-of-town travel commitments; that Student needs additional time to obtain legal representation; and that San Bruno has not provided Student with all requested educational records.[1] On November 16, 2015, San Bruno filed a non-opposition to the continuance but opposed the dates requested by Student. During the PHC, both parties were heard as to the requested continuance. This was an initial request for continuance.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

[1] Parent requested educational records on November 9, 2015. San Bruno is gathering these records and anticipates they will be available for Student by November 17, 2015.

Student established good cause for a continuance in this matter. All dates were vacated and the matter was continued to the following dates:

Mediation:	December 3, 2015, at 9:30 a.m.
Prehearing Conference:	February 12, 2015, at 1:00 p.m.
Due Process Hearing:	February 22, 2016, at 1:30 p.m., February 23-25, 2015, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

The mediation and hearing shall take place at San Bruno's District Office located at 500 Acacia Avenue, San Bruno, California, 94066. As ordered in the scheduling order, the named local educational agency was to provide a facility for the mediation and hearing that fully complies with the Americans with Disabilities Act of 1990 (42 U.S.C. § 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. San Bruno failed to certify that it would provide a facility for this case that complied with the law. San Bruno shall inform OAH within two days of the date of this order whether it is able to certify that it will provide a facility that complies with the law, and shall file such certification with OAH.

Prior to the beginning of the hearing, San Bruno shall assist the ALJ to ensure that the hearing room is configured into a courtroom setting, including (1) a table for Student and his representatives; (2) a table for District's legal representative and special education representative; (3) a table for the witness; and (4) a table for the ALJ, near an electrical outlet.[2] San Bruno shall also make reasonable effort to ensure that drinking water and tissue are available to all parties, witnesses and the ALJ.

2. Notice to Witnesses. 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.

3. Other Matters. All other matters relevant to preparing for hearing, including clarification of the issues and identification of witnesses and exhibits, will be addressed at

[2] In the event San Bruno is unable to ensure an appropriate hearing room at its District Office, San Bruno shall file a motion to change the location of the hearing and certify that any proposed alternate location is fully accessible.

the PHC on February 12, 2016. Student is required to file a PHC statement at least three business days prior to the PHC and provide a copy to San Bruno's counsel.

4. 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 hearing. Dates for the PHC and hearing will not be cancelled unless OAH receives a letter of withdrawal or request for dismissal from San Bruno, or unless otherwise ordered.

IT IS SO ORDERED.

DATE: November 16, 2015

/S/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings