BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ETIWANDA SCHOOL DISTRICT.	OAH Case No. 2017110983 ORDER REMOVING ATTORNEY WORK PRODUCT FROM EXHIBIT S-1

On February 21, 2017, during the due process hearing in this matter, Student's Exhibit S-1, baseline data sheets consisting of pages 1 through 7, was admitted into evidence.

Upon review of the evidence, the undersigned ALJ discovered that page 1 of Exhibit S-1 was not a part of the baseline data sheets, but the attorney work product of Student's counsel. Upon closer examination, only pages 2 through 7 of Exhibit S-1 consist of the baseline data sheets, and those six pages are internally marked "1 of 6", "2 of 6", etc. Upon review of the audio record, Elaine Sun testified that she did not recognize page 1 of Exhibit S-1, and laid a foundation for pages 2 through 7 of that exhibit only.

Accordingly, page 1 of Exhibit S-1, which is the work product of Student's counsel, is removed from Exhibit S-1 and will be destroyed. Exhibit S-1 will consist of pages 2 through 7 only.

Student's counsel is admonished to be diligent in ensuring that confidential attorney work product is not embedded within documentary evidence in any future proceeding. Failure to bring inadvertent inclusion of work product in an exhibit to the attention of the hearing judge, or intentional inclusion of work product in a document with the intent to mislead, may subject counsel and his client to sanctions.

IT IS SO ORDERED.

DATE: March 7, 2018

DocuSigned by:
Alexa Hohensee
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ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings