BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: NEWPORT-MESA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016090104 ORDER FOLLOWING PREHEARING CONFERENCE AND CONTINUANCE OF PHC ONLY

On February 17, 2017, a telephonic prehearing conference was held before Administrative Law Judge Penelope Pahl, Office of Administrative Hearings. Courtney Brady, Attorney at Law, appeared on behalf of Newport Mesa Unified School District. The PHC was recorded.

Shortly before the Prehearing Conference was scheduled to begin, Student's mother sent an email to the Special Education filings address stating that she had pneumonia and attaching a photo of a prescription receipt. The assigned OAH Case Manager left a voice mail message for Student's mother informing her that a photo attachment was not acceptable form of filing. The undersigned then called Student's mother twice: once at 3:00 p.m. when a voice mail was left indicating that it was understood a continuance was being sought and a request should be made during the PHC. Student's mother was informed in the message that a request for continuance would be entertained during the PHC and that the undersigned would call again at 3:10. A second call was placed at 3:12 p.m.; however, no answer was received. A message indicating the PHC would proceed was left on Student's mother's voice mail.

The PHC was convened with District's counsel who was informed of the late information that Student's mother was ill. Counsel for the District objected to the fact that she had not been copied on the communication with OAH. However, the District did not object to a continuance of the PHC to accommodate Student's mother's illness. Based upon discussion counsel for the District and the communication from Student's mother, the ALJ issues the following order:

1. Prehearing Conference Continuance: The telephonic PHC that was begun on February 17, 2017 shall continue on February 24, 2017 at 10:00 a.m. to accommodate Student's mother's illness. **Parties are ordered to submit the required PHC Statement by February 22, 2014 if they have not already submitted a PHC Statement. All communications filed with OAH by Student must also be sent to the District's**

attorney. The PHC shall be completed on this date. No further continuances will be allowed. The dates for the hearing and hearing time estimate were confirmed at the February 17, 2017 PHC. All other Prehearing matters are reserved for the February 24, 2017 Prehearing Conference.

2. Hearing Dates, Times, and Location. District confirmed a two day time estimate for the hearing. The hearing shall take place on February 28, 2017, at 9:30 a.m. and on March 1, 2017, at 9:00 a.m., continuing day to day thereafter, Monday through Thursday, at the discretion of the ALJ. **No further continuances of these dates shall be allowed.** The hearing shall take place at the District's offices located at Newport-Mesa Unified School District, 2985-A Bear Street, Costa-Mesa, CA 92626.

3. Exhibits. **Copies of Exhibits in binders as described in the Special Education Handbook, available online, and as described below are due be exchanged no later than February 21, 2017**. Unless presented solely for rebuttal, exhibits that are not timely exchanged will not be allowed to be admitted during hearing unless good cause is established and the document is ruled admissible by the ALJ**.**

Exhibits shall be pre-marked and placed in three-ring exhibit binders prior to the hearing. The parties shall use numbers to identify exhibits, but shall place the letter "S" or "D" in front of the exhibit to designate if it is a Student or District exhibit (for example, "S-5, S-6, or D-1, D-2"). Each exhibit shall be internally paginated by exhibit, or all of a party's exhibits shall be Bates-stamped. Each exhibit binder shall contain a detailed table of contents. The parties shall serve their evidence binders on each other in compliance with Education Code section 56505, subdivision (e)(7). At the hearing, each party shall supply an exhibit binder containing its exhibits for use by the ALJ, and a second exhibit binder for use by witnesses. The parties may not serve exhibits on OAH prior to the hearing. In the event of duplicate exhibits, the most legible version will be used.

Parties are encouraged to present resumes or curriculum vitae for each professional witness.

4. Witnesses.

(a) **Witness lists must be exchanged no later than February 21, 2017.** Witnesses that are not disclosed by the deadline will not be allowed to testify unless good cause is established and the testimony is ruled admissible by the ALJ**.** Each party is responsible for procuring the attendance at hearing of its own witnesses. Each party shall make witnesses under its control reasonably available.

(b) The parties are encouraged to review and shorten their witness lists and lists of Exhibits prior to the hearing, bearing in mind that evidence will be excluded if it is repetitive, cumulative, or insufficiently probative to justify the time it would take to hear.

5. Special Needs and Accommodations. A party or participant to this case, such as a witness, requiring reasonable accommodation to participate in the hearing may contact the assigned calendar clerk identified in the scheduling order, at (916) 263-0880, or the OAH ADA Coordinator at OAHADA@dgs.ca.gov or 916-263-0880 as soon as the need is known. Additional information concerning requests for reasonable accommodation is available on OAH's website at http://www.dgs.ca.gov/oah/Home/Accommodations.aspx.

6. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: February 17, 2017

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Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings