BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: ELK GROVE UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016020899 ORDER DENYING REQUEST FOR CONTINUANCE OF ORDER TO SHOW CAUSE HEARING

On June 17, 2016, a telephonic hearing was convened pursuant to an order to show cause why costs should not be shifted or contempt certified to Sacramento Superior Court based upon an ex parte communication sent by Student's representative, Mr. James Peters, III. At that time, Mr. Peters asked that the OSC hearing be continued because he wanted to be represented at the hearing by an attorney and he had not had time to secure representation. The hearing was continued until June 20, 2016, at 11:00 a.m. Mr. Peters was ordered to provide in writing, to the undersigned and Elk Grove Unified School District, any legal authority upon which he, as the representative for Student, would be entitled to a continuance of the OSC hearing in order to secure representation, no later than 10:00 a.m. on June 20, 2016. Mr. Peters did not provide any legal authority prior to the hearing recommencing at 11:00 a.m.

At the outset of the hearing on June 20, 2016, Mr. Peters asked for another continuance of at least two weeks, so that he could secure representation for the OSC hearing. He provided no legal authority for his request at the hearing. He also asked for a continuance of the OSC hearing based upon a death in his family on the morning of June 20, 2016. Another continuance was granted, based upon Mr. Peters' oral argument and the OSC was scheduled for June 24, 2016 at 9:00 a.m. Mr. Peters was told that if he desired a longer continuance, he could file a written motion no later than noon on June 21, 2016, detailing the specific reasons for the continuance along with a signed declaration supporting the facts in the motion and any other supporting evidence needed. Elk Grove was given until 5:00 p.m. the same day to file a response as to the dates requested. Both Mr. Peters and Elk Grove timely filed the motion and response.

Mr. Peters filed a lengthy motion, most of which is unrelated to the request to continue the OSC hearing scheduled for June 24, 2016, and is therefore not considered here. The declaration attached to the motion is very short and because the facts contained in the declaration are the only facts sworn to under penalty of perjury, only these facts are considered herein.

Mr. Peters request to continue the hearing scheduled for June 24, 2016 is denied. The request for a continuance in order to secure representation for himself is denied with prejudice. Mr. Peters provided no information on steps he undertook after 11:00 a.m. on June 20, 2016, to secure the services of an attorney, no notice of representation has been filed and Mr. Peters provided no legal authority supporting a continuance of an OSC hearing in order for a representative of a party to obtain legal counsel. Nothing in this order prohibits Mr. Peters from having legal representation at the OSC hearing, as long as the appearance of the attorney is properly noticed prior to the hearing.

The request to continue because of the death of his family member is denied without prejudice. Mr. Peters failed to establish his unavailability for a telephonic hearing on June 24, 2016, specifically. As of the date he filed the motion, there was no date for the funeral and his declaration references only that he needs to help his father for two weeks and that the services will be within 8-10 days from June 21, 2016. Mr. Peters did not establish his unavailability for the specific date and time of the scheduled OSC hearing. However, because attendance at a funeral may be good cause, Mr. Peters may resubmit the motion to continue if the funeral services are in conflict with the OSC hearing, along with evidence supporting the conflict. The motion to continue because of the death of a family member is denied without prejudice.

The OSC hearing will proceed on June 24, 2016, at 9:00 a.m.

IT IS SO ORDERED.

DATE: June 23, 2016

DocuSigned by:
Margaret Broussard
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MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings