BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
KERN HIGH SCHOOL DISTRICT,	OAH CASE NO. 2014031002
v.	ORDER CONTINUING PRE-HEARING CONFERENCE AND ORDER TO SHOW CAUSE WHY THE PHC AND DUE PROCESS HEARING SHOULD NOT PROCEED AS SCHEDULED
PARENT ON BEHALF OF STUDENT.	

On April 14, 2014, Administrative Law Judge (ALJ) Stella L. Owens-Murrell, Office of Administrative Hearings (OAH), attempted to convene a telephonic prehearing conference (PHC). Darren Bogie, Attorney at Law, appeared on behalf of District. Parent was not reachable despite the ALJ's attempt to reach her at her telephone number on record with OAH. The ALJ left a voice mail message for Parent regarding the PHC. The PHC was recorded.

District timely filed a PHC statement. Parent did not file a PHC statement which was due by April 9, 2014. On April 7, 2014 Parent faxed a request to continue the PHC and due process hearing because she is in the process of obtaining an attorney to represent Student in this case and because Student was relocating to a new school district. Parent did not serve the request on District. The request was denied. On April 14, 2014, prior to the PHC, Parent spoke to Presiding ALJ Judith Kopec and informed her that she would not attend either the PHC or the due process hearing. The ALJ proceeded with the PHC at 1:00 p.m. At the PHC District represented there is no record of Student's relocation out of the District. District also represented that it had informed Mother that District would not stipulate to a 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 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 the proximity of 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).)

Parent's request is the first request made to continue the case. Although OAH is inclined to grant a first continuance in this case, Parent must provide specific dates to which she wants the case continued, preferably after meeting and conferring with District. In this case Parent not only did not provide specific dates, she failed to appear and participate in the PHC to discuss specific dates for continuance. The due process hearing is currently scheduled to begin on April 22, 2014. In the absence of Parent's participation and further explanation of the dates she desires to go forward to hearing OAH is obligated to proceed with the hearing as currently scheduled.

Based upon the matters discussed above and the record in this matter the ALJ issues the following order:

1. Order Continuing PHC: The PHC is continued to Friday April 18, 2014, at 1:00 p.m. OAH will initiate the telephone call.

2. Order to Show Cause: Parent is ordered to appear telephonically at the PHC, and show cause why the District's case should not proceed to hearing as currently scheduled. If Parent fails to appear for the PHC and fails to explain why the case should not proceed to hearing on April 22, 2014, the case will go to hearing on April 22, 2014 at 9:30 a.m.

3. Order Directing Service of Documentary Evidence and Witnesses Lists: Parent is ordered to serve documentary evidence and list of witnesses on District by 5 p.m., the close of business on April 17, 2014.

If either party wishes to be contacted at a telephone number other than the one listed in the pleadings filed in this case, that party shall provide written notice by facsimile to OAH of the alternate telephone number by close of business on Thursday April 17, 2014.

IT IS SO ORDERED.

Dated: April 14, 2014

/s/

STELLA L.OWENS-MURRELL
Administrative Law Judge
Office of Administrative Hearings