BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

BASS LAKE JOINT UNION ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2020060992

ORDER FOLLOWING PREHEARING CONFERENCE GRANTING CONTINUANCE OF PREHEARING CONFERENCE AND HEARING

SEPTEMBER 25, 2020

On September 25, 2020, Administrative Law Judge Penelope Pahl, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Daniel Shaw, Attorney at Law, appeared on behalf of Student. Karen Gilyard, Attorney at Law, appeared on behalf of Bass Lake Union Elementary School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

REQUEST FOR CONTINUANCE

At the time of the scheduled prehearing conference, counsel for student reported that Student had just been admitted to the hospital for treatment of serious health issues and was expected to be in the hospital for a minimum of a week. Mr. Shaw had received the information just prior to the beginning of the prehearing conference. As a result of Student's illness and Parents' need to be with Student in the hospital, Mr. Shaw requested a continuance of the prehearing conference and hearing. Counsel for Bass Lake did not object.

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).)

Parents' need to attend to Student's health needs while she is in the hospital constitutes good cause for a continuance. Parents are necessary witnesses and parties to these proceedings. After a discussion with counsel for the parties, the following dates were selected:

Prehearing Conference	October 12, 2020 at 10:00 AM
Hearing	October 20, 21, and 22, 2020.

The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, unless otherwise ordered. After the scheduled dates, the hearing shall take place from day to day, including Mondays and Fridays, as needed, at the discretion of the ALJ. The need for additional hearing dates will be discussed with the ALJ during the hearing.

HEARING LOCATION

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Based on state and federal guidance to address safety procedures due to the novel coronavirus, COVID-19, OAH will conduct the due process hearing by videoconference using the Microsoft Teams application. Unless otherwise ordered, participants are required to appear by videoconference using a webcam and Microsoft Teams.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing.

All other matters are deferred to the October 12, 2020 prehearing conference.

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 if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the

signed agreement or a letter withdrawing the case to OAH at https://www.applications.dgs.ca.gov/oah/oahsftweb.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

IT IS SO ORDERED.

DocuSigned by:
Penelope S. Pahl
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Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings