BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2013010236
v.	ORDER CONTINUING DUE PROCESS HEARING AND REQUIRING DISCLOSURE OF WITNESSES' INFORMATION
NEW HAVEN UNIFIED SCHOOL DISTRICT.	

This matter came on for hearing before Administrative Law Judge (ALJ) Theresa Ravandi, Office of Administrative Hearings (OAH), State of California, on April 16, 2013, in Union City, California.

Attorney Nicole Hodge Amey represented Student and Parent. Mother was present, as was a sibling. Student did not attend the hearing. Latisha Billingsley appeared with Ms. Amey as a non-certified sign language interpreter to assist with the interpretation of preliminary matters for Mother.

Attorney Laurie Reynolds represented the New Haven Unified School District (District). The District's Director of Special Education, Sarah Kappler, was present.

Based on discussions with the parties on and off the record, no substantive hearing was held and the hearing was continued. The following order is issued based on the orders issued on the record.

1. Need for Continuance: Good cause was established for a continuance and the parties agreed to the dates listed below.

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).)

There is good cause for a continuance in this matter to afford Parent an opportunity to fully participate in and understand the proceedings with the assistance of a certified sign language interpreter. OAH will arrange for the presence of two sign language interpreters for the continued hearing dates.

2. Hearing Dates, Times and Location: The hearing dates are vacated. The hearing shall be held on May 29 through 31, 2013, and continuing day-to-day, Monday through Thursday, as needed, at the discretion of the ALJ.[1] The hearing shall begin at 9:30 a.m. on May 29, 2013, and at 9:00 a.m. on all other days. The hearing shall be held at the District's offices at 34200 Alvarado Niles Road, Union City, California 94587.

3. Witness Issues: The District filed its final witness list as required by the prehearing conference (PHC) order dated April 9, 2013. Student has not filed his final witness list including anticipated order and time estimates as required. Student is ordered to file and serve his final list by Friday, April 19, 2013, at 5:00 p.m.

Student has identified two former District employees as witnesses, Gretchen Sustacheke and Kristin Peterson. The District is ordered to determine whether it will accept service of subpoenas for these witnesses' attendance and testimony at hearing, and notify Student's counsel of its position by Friday, April 19, 2013. In the event the District will not accept service on behalf of either of these witnesses, the District is ordered to provide their last known contact information, including home addresses, to Student's counsel by Friday, April 19, 2013, so that she may serve them with a subpoena.

The parties shall immediately notify their witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. Each party is responsible for procuring the attendance at hearing of its own witnesses. Each party shall make witnesses under its control reasonably available to the other party without need for a subpoena. A witness will not be regarded as unavailable for purposes of showing good cause to continue the hearing if the witness has not been properly notified of the hearing date or properly subpoenaed, as applicable.

The previous PHC order regarding witnesses and exhibits remains in effect.

4. Amended PHC Statements: Should the parties make any material changes to their PHC statements previously filed with OAH, including their respective lists of witnesses and exhibits, they shall file amended PHC statements not later than 5:00 p.m. on May 21, 2013.

5. Settlement: The parties are encouraged to negotiate to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If a settlement is reached five business days or fewer before the due process hearing is scheduled

[1] The ALJ agreed to hear the third day of hearing on Friday, May 31, 2013.

to begin, the parties shall, in addition, immediately inform OAH of that fact during business hours by telephone at **(916) 263-0880.**

Dates for hearing will not be cancelled until a letter of withdrawal or request for dismissal along with the signature page of the signed agreement has been received 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 A FULL AND FINAL SETTLEMENT IS REACHED AFTER 5:00 P.M. ON THE LAST BUSINESS DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT **(916) 274-6035,** AND SHALL ALSO LEAVE CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. OAH will check for messages the evening prior to the hearing and the morning of the hearing.

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

IT IS SO ORDERED.

Dated: April 16, 2013

/s/
THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings