BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of:<br><br>PARENTS ON BEHALF OF STUDENT,<br><br>v.<br><br>TEHACHAPI UNIFIED SCHOOL DISTRICT. | OAH Case No. 2016110289<br><br>ORDER GRANTING JOINT REQUEST FOR CONTINUANCE TO PERMIT BRIEFING ON JURISDICTIONAL ISSUES; ORDER SETTING BRIEFING SCHEDULE; ORDER SETTING ADDITIONAL PREHEARING CONFERENCE AND NEW HEARING DATES |

On December 19, 2016, the due process hearing in this matter convened. After Student's opening statement, the parties made a joint request to continue the matter to brief the extent of the issues raised by Student in her due process complaint, and the extent of the Office of Administrative Hearings' jurisdiction over the issues.

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).)

Good cause appearing, the parties' request to continue and to submit pre-hearing briefs is granted. The parties have proposed and the Administrative Law Judge has agreed to the following briefing schedule:

Student's opening brief of no more than 25 pages will be served and filed no later than 5:00 p.m. on **January 13, 2017.**

District's response brief of no more than 25 pages will be served and filed no later than 5:00 p.m. on **January 30, 2017.**

Student's response brief of no more than five pages will be served and filed no later than 5:00 p.m. on **February 7, 2017.**

The parties are directed to also address in their briefs the extent of OAH jurisdiction over Student's proposed remedy of an order that District is required to permit Student's applied behavioral analysis aide to accompany Student to school to administer applied behavioral analysis treatment to her during school hours.

Briefs are to be double-spaced, using no less than 12 point font. Tables of authorities and tables of contents are not included in the page limitations described above. Footnotes are to be in the same font as the body of the briefs.

The present hearing dates in this matter are vacated and the hearing is continued as follows:

**Additional Telephonic Prehearing conference: February 27, 2017, at 3:00 p.m.**

**Due Process Hearing, if needed: March 7, 8, and 9, 2017, at the OAH offices located at 15350 Sherman Way, Suite 300, Van Nuys, CA 91406,** and continuing day to day thereafter, Monday through Thursday, at the discretion of the Administrative Law Judge. The hearing shall begin at 9:30 a.m. on March 7, 2017, and at 9:00 a.m. all other days, unless otherwise ordered.

IT IS SO ORDERED.

DATE: December 20, 2016

DocuSigned by:
Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings