BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017110983
v.	ORDER DENYING WITHOUT PREJUDICE STUDENT'S MOTION FOR TELEPHONIC TESTIMONY
ETIWANDA SCHOOL DISTRICT.	

On November 27, 2017, Parent on behalf of Student filed a request for due process hearing with the Office of Administrative Hearings naming the Etiwanda School District. On December 4, 2017, Student filed a motion to allow telephonic testimony at hearing of Dr. Dian Tackett. In her motion, Student states that Dr. Tackett "is in" Denver, Colorado. Student did not include a declaration by Dr. Tackett or by Student's attorney in support of the motion. Student's motion does not indicate if Dr. Tackett resides in Colorado or is only there temporarily. District did not file an opposition or other response to Student's motion.

Whether a witness may appear by telephone is a matter within the discretion of the ALJ hearing the case. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Here, Student failed to provide sufficient information to determine whether telephonic testimony is required due to Dr. Tackett's residency in Colorado, or if Dr. Tackett is only temporarily out-of-state and therefore her testimony could be presented when she returned to California.

Student's motion for telephonic testimony is denied without prejudice. Student may renew her motion in her prehearing conference statement for ruling by the Administrative Law Judge assigned to the PHC, which is presently scheduled for January 12, 2018.

IT IS SO ORDERED.

DATE: December 14, 2017

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