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>OAKLAND UNIFIED SCHOOL DISTRICT. | OAH Case No. 2015010344<br><br>ORDER FOLLOWING PREHEARING CONFERENCE GRANTING CONTINUANCE AND SETTING NEW DATES |

This matter is set for hearing beginning on March 5, 2015. On February 27, 2015, a telephonic prehearing conference in this matter was held before Administrative Law Judge Deidre L. Johnson, Office of Administrative Hearings. Attorney Karen Watkins appeared on behalf of Student and Parents. Attorney David Mishook appeared on behalf of the Oakland Unified School District.[1] The conference was recorded.

1. Motion for Continuance: On February 26, 2015, Oakland filed a motion to continue the due process hearing in this matter due to a scheduling conflict. In addition, Oakland has not prepared for hearing in reliance on its belief the case had settled. At the outset of the telephonic conference, Student did not oppose the motion.

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).)

No previous request for a continuance has been made or granted in this matter. Oakland established good cause for a continuance based on the unavailability of both its counsel and district representative, who are scheduled for another special education due process hearing, in OAH Case Number 2014110680, beginning on Monday, March 9, 2015,

[1] Oakland special education coordinator John Rusk was present with Mr. Mishook.

for four days. Oakland's other special education attorney is on medical leave and is unavailable for the hearing starting March 5, 2015. A continuance is therefore granted and the previously set hearing dates are vacated.[2] The parties estimate this case may require four days for hearing.

Based on the available dates for OAH and the parties, this matter is set as follows:

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| Prehearing Conference: | April 3, 2015, at 10:00 a.m. |
| Hearing: | April 13, 2015, at 1:30 p.m.<br>April 14 through 16, 2015, at 9:00 a.m.<br>and thereafter day to day, Monday through Thursday as needed, at the discretion of the ALJ |

2. Notice to Witnesses: The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purpose of showing good cause to continue the hearing if the witness is not properly notified of the hearing date or subpoenaed, as applicable.

3. Other Matters: All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the next prehearing conference.

4. Settlement: The above dates will not be cancelled until a letter of withdrawal, or a request for dismissal with the signature page of a signed settlement agreement has been received by OAH. In the event a settlement agreement is executed subject to board approval, the parties may request to continue the matter and set a telephonic status conference call following the date anticipated for board approval. The parties shall otherwise plan to attend the scheduled prehearing conference and the hearing unless different arrangements have been agreed upon by the assigned ALJ, or as ordered by OAH.

DATE: February 27, 2015

**/S/**
DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

[2] Oakland's belief in settlement did not excuse its obligation to continue to prepare for hearing and did not establish cause for a continuance.