BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. MORGAN HILL UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015021052 ORDER FOLLOWING PREHEARING CONFERENCE AND CONTINUING PREHEARING CONFERENCE ONLY

On June 5, 2015, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Gail S. Hodes, Attorney at Law, appeared on behalf of Parent and Student. Sarah L. Garcia, Attorney at Law, appeared on behalf of Morgan Hill Unified School District. The PHC was recorded.

Based on discussion with the parties, the ALJ issues the following order:

1. Request to Continue PHC. At the start of the PHC, Student represented that he had a good faith belief this mater may settle based upon recent communications. Student moved to continue the PHC only to Monday, June 8, 2015, to save resources and focus attention on possible settlement. Morgan Hill did not oppose the continuance conditioned on Student identifying which particular Morgan Hill employees he intended on calling.

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).)

Morgan Hill understandably wants to know which of its employees Student plans to subpoena in order to prepare for the presentation of its case. However, Student indicated that he plans to call all witnesses listed in his PHC statement. Student established good cause for a continuance of the PHC. The PHC will now be held on Monday, June 8, 2015, at 10:00 a.m. The hearing remains as previously set and will commence on June 15, 2015, at 1:30 p.m., at Morgan Hill's District office located at 15600 Concord Circle, Morgan Hill,

California, 95037. Morgan Hill shall provide a facility for the hearing that fully complies with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and all laws governing accessibility of government facilities to persons with disabilities.

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 purposes of showing good cause to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

Morgan Hill will not be required to produce employees who, by contract, are not year-round employees, due to Morgan Hill's summer break which started on June 5, 2015.

3. Other Matters. All other matters relevant to preparing for hearing, including clarification of the issues and identification of witnesses and exhibits, will be addressed at the PHC on June 8, 2015.

4. Settlement. The parties are encouraged to continue working together to reach an agreement before the continued PHC date. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled PHC and hearing dates. Dates for the PHC and hearing will not be vacated unless OAH receives a letter of withdrawal or request for dismissal from Student with the signature page of the signed agreements, or unless otherwise ordered. If an agreement is pending board approval, Student may request that OAH vacate dates and schedule a status conference.

IT IS SO ORDERED.

DATE: June 5, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings