

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HERMOSA BEACH CITY SCHOOL
DISTRICT.

OAH Case No. 2018100506

ORDER FOLLOWING PREHEARING
CONFERENCE AND GRANTING
REQUEST FOR CONTINUANCE

On April 8, 2019, Administrative Law Judge Adrienne L. Krikorian, Office of Administrative Hearings held a telephonic prehearing conference. Attorney Diana Maltz appeared on Student's behalf. Attorney Sundee Johnson appeared on behalf of Hermosa Beach City School District. The PHC was recorded. Based upon discussion with the parties, the ALJ makes the following orders.

1. Student's Motion to Continue. Student filed her complaint on October 11, 2018. On November 20, 2019, OAH granted a motion to set mediation and continue the hearing. The parties participated in mediation on February 4, 2019. On April 2, 2019, Student filed a second motion to continue the hearing, claiming Student was in the process of a parent-funded independent educational evaluation, and a pending IEP meeting to discuss the evaluation. She also contended the independent evaluation may contribute to resolving the matter. District filed a Non-Opposition to the Motion to Continue on April 5, 2019. The matter is set for hearing on April 16-19, 2019.

The parties have shown good cause for a second continuance in this case for the purpose of continuing settlement discussions. However, the IDEA mandates speedy resolution of these matters. This complaint was filed on October 10, 2018, and the parties mediated in February 2019. **OAH is not inclined to grant any further continuances of the due process hearing.** The matter is continued as follows:

PHC: May 24, 2019, 1:00 p.m. The parties are not required to file new PHC statements unless circumstances change.

Due Process Hearing: June 4, 2019, 9:30 a.m., June 5-6, 2019, 9:00 a.m., unless otherwise ordered, and continuing day to day at the discretion of the hearing ALJ.

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.

2. ADA Compliance. As ordered in the scheduling order, the named local educational agency was to 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 et seq.), the Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and all laws governing accessibility of government facilities to persons with disabilities. The named local educational agency failed to certify that it would provide a facility for this case that complied with the law. The local educational agency shall file the required certification within two days of the date of this order.

3. Other Prehearing Conference Matters. All other prehearing conference matters will be discussed at the continued prehearing conference.

4. Settlement before Prehearing Conference. The parties are encouraged to continue working together to reach an agreement before the scheduled hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the prehearing conference. In addition, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY BEFORE THE PREHEARING CONFERENCE, THE PARTIES SHALL EMAIL THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT <https://www.applications.dgsapps.dgs.ca.gov/oah/oahsftweb> .

The prehearing conference will not be cancelled until OAH receives the letter of withdrawal or signature page of the signed agreement. If the parties reach an agreement in principle, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ.

If the parties settle the matter subject to school board approval, in addition to a signed copy of the signature page of the settlement agreement as noted above, the parties shall provide the date of the next school board meeting. OAH will not cancel the prehearing conference without this information, and will set the matter for dismissal 30 days after the school board meeting.

5. Failure to Comply. Failure to comply with this Order may result in sanctions or exclusion of evidence.

IT IS SO ORDERED.

DATE: April 8, 2019

DocuSigned by:

ADRIENNE L. KRIKORIAN
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Administrative Law Judge
Office of Administrative Hearings