

**BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA**

**IN THE MATTER OF:  
PARENT ON BEHALF OF STUDENT,**

**v.**

**NEWPORT-MESA UNIFIED SCHOOL DISTRICT.  
OAH CASE NUMBER 2019060916**

**ORDER FOLLOWING PREHEARING CONFERENCE, GRANTING LEAVE TO  
AMEND, AND GRANTING CONTINUANCE REQUEST**

On September 9, 2019, Administrative Law Judge Alexa Hohensee, Office of Administrative Hearings, held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The Office of Administrative Hearings will be referred to as OAH. Prehearing conference is referred to as PHC.

Parent appeared on behalf of Student. Adam Newman, Attorney at Law, appeared on behalf of Newport Mesa Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

## HEARING DATES, TIMES, AND LOCATION

### CONTINUANCE OF DUE PROCESS HEARING FOR FILING OF AMENDED COMPLAINT

At the PHC, Student requested a continuance to file an amended complaint, which was unopposed by Newport Mesa.

The Order of Determination of Sufficiency of Due Process Complaint, dated July 3, 2019, found that Student stated claims only as to a November 2018 individualized education program, or IEP, team meeting. At the PHC, Parent clarified that the IEP team meeting at issue occurred in June 2018, not November 2018, and sought leave to amend Student's complaint. **Student was granted leave through September 23, 2019 to amend his due process hearing request.**

The request for continuance was granted for good cause. All previously scheduled dates are vacated. The case shall proceed as follows:

Prehearing Conference: September 30, 2019 at 10:00 AM

All other prehearing conference matters shall be addressed at the September 30, 2019 PHC. All prehearing motions must be filed three business days before the PHC.

Due Process Hearing: October 8, 2019 through October 10, 2019

The hearing shall begin at 9:30 AM on the first day of the hearing and at 9:00 AM on all other days, unless otherwise ordered. The hearing days will end at 4:30 PM, unless otherwise ordered by the ALJ. The hearing will continue day to day at the discretion of the ALJ.

Parent was advised on the record that **new Prehearing Conference and Due Process Hearing dates will be assigned if and when the amended complaint is filed.**

Student's request to expedite the due process hearing on the amended complaint was denied as premature. Student may submit a written request to OAH for any calendaring requests regarding the amended complaint.

### **HEARING LOCATION**

The hearing will be held at Newport Mesa Unified School District, 2985 Bear Street, Costa Mesa, CA 92626.

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.

### **SETTLEMENT**

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

If a full and final written settlement agreement is reached after 4:00 p.m. the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

## **FAILURE TO COMPLY**

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

## **IT IS SO ORDERED.**

DATED: September 9, 2019

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Alexa Hohensee  
Administrative Law Judge  
Office of Administrative Hearings