BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

LEGAL GUARDIAN ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019070571

ORDER FOLLOWING PREHEARING CONFERENCE GRANTING JOINT REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On September 23, 2019, Administrative Law Judge Rommel P. Cruz, Office of Administrative Hearings held a telephonic prehearing conference. The Office of Administrative Hearings will be referred to as OAH.

Attorney Carol Churchill appeared on behalf of Student. Attorney Debra Ferdman appeared on behalf of Long Beach Unified School District. The prehearing conference was recorded. Based upon discussion with the parties, the Administrative Law Judge issues the following order:

CONTINUANCE

At the prehearing conference, the parties jointly requested to continue the due process hearing based on the unavailability of Guardian and to allow the parties to

participate in mediation. Guardian was involved in an auto accident on evening of September 22, 2019, and she required surgery. As a result, the mediation scheduled for September 23, 2019, at 1:30 PM was canceled. The timeline for her recovery remains uncertain. The parties proposed the due process hearing be continued to January 28, 29, and 30, 2020. The parties anticipate requesting a new date for mediation once Guardian's availability is determined.

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 for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. OAH considers all relevant facts and circumstances in determining whether good cause exists to grant an extension. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference will be held on January 17, 2020, at 10:00 AM. Parties have filed prehearing conference statements, and therefore, statements need not be filed unless changed circumstances warrant it. Prehearing conference motions shall be filed no later than three business days prior to the prehearing conference or with evidence of good cause as to why it was not possible to timely file the motion.

Due Process Hearing will be held on January 28, 29, and 30, 2020. The hearing shall begin at 9:30 AM the first day, and at 9:00 AM on all other days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the

Administrative Law Judge. The hearing will be held at Long Beach Unified's offices located at Tucker Bungalow 24, 2221 Argonne Avenue, Long Beach, CA 90815.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or subpoena a witness.

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 Administrative Law Judge. The assigned Administrative Law Judge 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.

IT IS SO ORDERED.

DATED: September 23, 2019

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Rommel P. Cruz
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Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings