BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN JUAN UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017031130 ORDER FOLLOWING PREHEARING CONFERENCE, CONTINUING PREHEARING CONFERENCE AND DUE PROCESS HEARING, AND SETTING NEW MEDIATION DATE

On May 8, 2017, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Charles Marson, Office of Administrative Hearings. Linda C.T. Simlick, Attorney at Law, appeared on behalf of Student. There was no appearance on behalf of Student,[1] nor was a prehearing conference statement filed on Student's behalf. The PHC was recorded.

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

1. Motion for Continuance. At the outset of the PHC, San Juan moved to continue the hearing because the parties have not yet had a chance to engage in mediation. Due to difficulties in obtaining proper interpreters for the deaf and hard of hearing, two scheduled mediation dates have been vacated.

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. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have

[1] At the time scheduled for the PHC, the ALJ telephoned Martha A. Millar, Attorney for Student, at the number Ms. Millar previously provided, and received a recorded message that her voice mailbox was full.

stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

San Juan has shown good cause for a continuance. The requested continuance is granted. All dates are vacated. This matter will be set for PHC on May 26, 2017, at 1 P.M., and for due process hearing on June 6, 7, and 8, 2017, at 9:30 A.M. on the first day of hearing and 9:00 A.M. on subsequent days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

2. New Mediation Date: The matter is set for mediation on May 24, 2017, at 9:30 A.M.

3. Participation of Student's Attorney. Student's attorney is admonished that further failure to file a timely PHC statement or further unavailability for scheduled appearances may result in consideration of the imposition of sanctions, including the issuance of an order to show cause why the matter should not be dismissed and costs shifted to her.

4. All other matters deferred. The resolution of all other matters is deferred to the continued PHC on May 26, 2017, at 1:00 P.M.

IT IS SO ORDERED.

DATE: May 8, 2017

DocuSigned by:
Charles Marson
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CHARLES MARSON
Administrative Law Judge
Office of Administrative Hearings