BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

# IN THE MATTER OF

# PARENT ON BEHALF OF STUDENT,

# v.

# COMPTON UNIFIED SCHOOL DISTRICT.

# OAH CASE NUMBER 2019101110

## ORDER FOLLOWING PREHEARING CONFERENCE, ORDER GRANTING REQUEST FOR MEDIATION, AND ORDER GRANTING CONTINUANCE OF PREHEARING CONFERENCE AND DUE PROCESS HEARING

On December 9, 2019, Administrative Law Judge Chris Butchko, Office of Administrative Hearings, held a telephonic prehearing conference. The Administrative Law Judge is called an ALJ; the Office of Administrative Hearings is called OAH; and a prehearing conference is called a PHC.

Elias Economou, Attorney at Law, appeared on behalf of Student. Barrett Green, Attorney at Law, appeared on behalf of Compton Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

## REQUEST FOR CONTINUANCE

On December 6, 2019 the parties filed a joint request for a continuance of the prehearing conference to allow for mediation of this matter. This is the first request for a continuance in this matter. Because the request was filed so close to the day of the PHC, the request was discussed with the parties at the PHC.

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. (Ed. Code, § 56505, subd. (f)(3); 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 stipulated to a continuance; whether the interests of justice are served by the continuance or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. It is in the interest of judicial economy that the parties mediate special education due process matters. The request is:

Granted. All dates are vacated. This matter will be set as follows:

Mediation will be held on Wednesday, January 29, 2020, at 9:30 AM at Compton's offices located at 417 W. Alondra Boulevard, Compton, CA 90220.

The parties will meet and confer to consider new dates for the due process hearing and will file a request to reschedule the hearing if mutually agreeable dates can be found. Any request to reschedule the hearing will not be considered a second continuance request if it is filed by February 3, 2020. If substitute dates are not found, the PHC will be resumed on Monday, February 10, 2020, at 1:00 PM. Both parties are instructed to shall file their prehearing conference statements not later than three days before the PHC. The due process hearing will be held on February 19, 2020, through February 20, 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 ALJ.

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.

All other prehearing conference matters will be addressed at the resumed prehearing conference.

## 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 and processed 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.

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Chris Butchko
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DATED: December 9, 2019

Chris Butchko
Administrative Law Judge
Office of Administrative Hearings