BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: OAKLAND UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2017030950 ORDER FOLLOWING PREHEARING CONFERENCE; CONTINUING DATES; AND SETTING PREHEARING CONFERENCE AND HEARING DATES

On May 15, 2017, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. David Mishook, Attorney at Law, appeared on behalf of Oakland Unified School District. Nicole Hodge Amey, Attorney at Law, appeared on behalf of Parents and Student. The PHC was recorded.

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

1. Continuance of PHC and Due Process Hearing. On May 11, 2017, Student filed a Motion to Dismiss or Continue the Due Process Hearing and Order Oakland to Produce All Student Records. On May 15, 2017, Oakland filed an Opposition, to which Student filed a Reply. The undersigned ALJ informed the parties that due to her recent assignment to this matter given both parties' peremptory challenges, and the need to thoroughly consider and rule on the pending motion, all dates were continued.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Under California law, the parent shall have the right and opportunity to examine all school records of her child and to receive copies within five business days after the request is made by the parent, either orally or in writing. (Ed. Code, §§ 56043, subd. (n), 56504.) The educational agency shall comply with a records request without unnecessary delay and before any due process hearing. (*Ibid*.) Parents' due process hearing rights include the right

to examine the student's education records. (20 U.S.C. § 1415(b)(1); Ed. Code, § 56501(b)(3).) This access is a hallmark of the procedural protections afforded under the IDEA and a prerequisite to a full and fair administrative hearing.

To allow time to consider and rule on Student's pending motion, this matter is continued as follows:

Prehearing Conference:	June 2, 2017, at 1:00 p.m.
Due Process Hearing:	June 13, 2017, at 9:30 a.m., June 14-15, 2017, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.[1]

The hearing shall take place at the OAH's Oakland Office located at 1515 Clay Street, Suite 206, Oakland, California, 94612.

2. Notice to Witnesses. 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.

3. Other Matters. All other matters relevant to preparing for hearing, including clarification of the issues and identification of witnesses and exhibits, will be addressed at the telephonic PHC on June 2, 2017.

IT IS SO ORDERED.

DATE: May 17, 2017

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Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

[1] Oakland's opposition to the continuance was noted for the record and overruled.