BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
LODI UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016100923
v.	ORDER FOLLOWING PREHEARING CONFERENCE, GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND HEARING DATES
PARENT ON BEHALF OF STUDENT.	

On November 7, 2016, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Aimee M. Perry, Attorney at Law, appeared on behalf of Lodi Unified School District. Program Specialist Karen Honkala and SELPA Director Jonathan Martin participated on behalf of Lodi.[1] Parents appeared on behalf of Student. The PHC was recorded.

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

1. Mother's Request for a Continuance. At the start of the PHC, Mother requested a short continuance of the PHC and hearing dates as she was addressing a family emergency and unavailable to participate in the PHC. Father did not oppose a continuance. Lodi opposed a continuance. This is the first request for a continuance.

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).)

Mother established good cause for a short continuance. All dates were vacated and the matter was set as follows:

[1] Mother objected to Mr. Martin participating in the PHC. Mother's objection was overruled, and Mr. Martin was allowed to participate.

Prehearing Conference:	November 21, 2016, at 1:00 p.m.
Due Process Hearing:	November 29, 2016, at 9:30 a.m.,[2] November 30, 2016, at 9:00 a.m., December 1, 2016, at 9:00 a.m., and continuing day to day, Monday through Thursday, at the discretion of the ALJ.

The hearing is currently scheduled to take place at Lodi's District Office located at 1305 E. Vine Street, Lodi, California, 95240. Lodi's request to change the location of the hearing to Needham Elementary School located at 420 S. Pleasant Street, Lodi, California, 95240, will be addressed at the continued PHC.

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 November 21, 2016. As previously ordered in the initial Scheduling Order, Parents are ordered to file with OAH a prehearing conference statement at least three business days prior to the PHC, and serve a copy on Lodi's counsel and on each other. The PHC shall be filed with OAH Special Education Division, 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833. The Prehearing Conference Statement may be filed by facsimile transmission at (916) 376-6319.

The Prehearing Conference Statement shall include the following:

a. Each party's estimate of the time necessary to complete the Due Process Hearing;

b. A concise statement of the issues that remain to be decided at the Due Process Hearing and the proposed resolution of such issues, based upon those issues raised in the due process hearing request;

c. The name of each witness the party may call at the Due Process Hearing, a brief summary of the subject of the expected testimony of the witness, and a description of the issue to which the testimony of the witness relates;

[2] The ALJ mistakenly informed the parties during the PHC that the hearing would start on November 28, 2016. This matter will begin on Tuesday, November 29, 2016.

d. The name and address of each expert witness the party intends to call at the Due Process Hearing, a brief summary of the opinion that the expert is expected to give, and a description of the issue to which the testimony of the expert relates;

e. A list of documentary evidence that the party intends to present, and a description of any physical or demonstrative evidence; and

f. The need for an interpreter or special accommodation at the due process hearing

4. 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 should they reach a settlement or otherwise resolve the dispute before the scheduled PHC and hearing dates. Dates for the PHC and hearing will not be cancelled unless Lodi withdraws this case or requests dismissal and provides OAH with a copy of a signature page of a signed settlement agreement. If an agreement in principle is reached, the parties should plan to attend the scheduled PHC and hearing unless different arrangements have been agreed upon by the assigned ALJ.

IT IS SO ORDERED.

DATE: November 7, 2016

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Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings