BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

PLACENTIA-YORBA LINDA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019050861

ORDER FOLLOWING PREHEARING CONFERENCE GRANTING REQUEST FOR CONTINUANCE

On July 8, 2019, Administrative Law Judge Linda Johnson Office of Administrative Hearings held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The Office of Administrative Hearings will be referred to as OAH.

Parent appeared on behalf of Student after Student orally transferred her educational rights to her Parent for the limited purpose of this prehearing conference. Dan Harbottle, Attorney at Law, appeared on behalf of Placentia-Yorba Linda Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

Placentia-Yorba Linda moved to continue the prehearing conference and due process hearing based on the unavailability of key witnesses. Placentia-Yorba Linda

identified five witnesses who would be unavailable for at least two of the three scheduled hearing days and two of those witnesses would be unavailable all three days. The motion was timely filed three days prior to the prehearing conference. Student opposed the continuance and argued she would be adversely impacted by the delay because she would not have a decision prior to the start of the 2019-2020 school year on August 27, 2019. Although Student's concern is valid, Placentia-Yorba Linda established good cause for a short continuance. Parent will be allowed time to confirm her work schedule and request a second continuance if the dates proposed by Placentia-Yorba Linda conflict with Parent's work schedule. If an additional continuance is needed the parties are to meet and confer regarding new dates and notify OAH by July 31, 2019.

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).)

The request for continuance is granted for good cause. All previously scheduled dates are vacated. The case shall proceed as follows:

Prehearing Conference: August 2, 2019, at 10:00 a.m.

All other prehearing matters shall be addressed at the August 2, 2019, prehearing conference. All prehearing motions, except for an additional request for continuance, must be filed three business days before the PHC.

Due Process Hearing: August 13, 14, and 15, 2019.

The hearing shall begin at 9:30 AM on the first day of the hearing and at 9:00 AM on all other days, unless otherwise ordered. The hearing shall continue day to day at the discretion of the ALJ.

Hearing Location: Placentia-Yorba Linda Unified School District, 1301 East Orangethorpe Avenue, Room 200, Placentia, California 92670.

District facilities shall fully comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), the Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and all laws governing accessibility of government facilities to persons with disabilities. Districts are required to file written certification with OAH that the facilities District provides comply with these laws. District shall file the required certification prior to the PHC and provide facilities that comply with these laws.

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.

SETTLEMENT

The parties shall immediately inform OAH in writing if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If the parties reach a settlement 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.

If a full and final written settlement agreement is reached after 5:00 PM the day before the 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. 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.

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 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

Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DocuSigned by:
Linda Johnson
5092A92341544B9...

DATED: July 9, 2019

Linda Johnson
Administrative Law Judge
Office of Administrative Hearings