BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
POWAY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2018050966
v.	ORDER FOLLOWING PREHEARING CONFERENCE OF JUNE 8, 2018; ORDER GRANTING REQUEST FOR MEDIATION AND TO CONTINUE PREHEARING CONFERENCE AND DUE PROCESS HEARING
PARENTS ON BEHALF OF STUDENT.	

On June 8, 2018, a telephonic prehearing conference was held before Administrative Law Judge Darrell Lepkowsky, Office of Administrative Hearings. Justin Shinnefield, Attorney at Law, appeared on behalf of Poway Unified School District. Patricia Cromer, Attorney at Law, appeared on behalf of Parents on behalf of Student. The ALJ recorded the PHC.

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

1. Hearing Dates, Times, and Location. On June 8, 2018, the parties filed a joint request to set mediation date and to continue the PHC and due process hearing. It is the first request for continuance in this case. Good cause supports the motion and it is granted.[1]

This matter is continued as follows:

Mediation: August 6, 2018, at 9:30 a.m. at District's offices located at 15250 Avenue of Science, San Diego, California, 92128

Telephonic Prehearing Conference: October 1, 2018, at 3:00 p.m.

Due Process Hearing: October 9, 10, 11, 2018, and continuing day to day, Monday through Thursday, at the discretion of the ALJ. The hearing shall take place at the **District's**

[1] The parties filed their joint request for mediation and for continuance of the hearing only a few hours prior to the time the PHC was scheduled to start. The parties are reminded that they were directed in the scheduling order, issued on May 23, 2018, that all motions needed to be filed no later than June 5, 2018, three days prior to the PHC. Although Student timely filed a motion to continue on June 4, 2018, it failed to indicate proposed continued hearing dates. The parties are cautioned that future motions that do not meet the required timelines risk being denied.

offices at the address indicated above. The hearing shall begin at 9:30 a.m. the first day of the hearing and at 9:00 a.m. all other days, unless otherwise ordered.

2. Student's Motion to Compel Observation. On June 5, 2018, Student filed a motion for an order compelling District to permit his expert, Dr. Mitchell Perlman, to observe the school placement District offered to Student in its last individualized educational program. That offer is at issue in the present case. District filed an opposition to Student's motion on June 7, 2018, on the basis that the motion is moot. District provided documentary evidence that it arranged with Dr. Perlman to have the observation take place the morning of June 8, 2018. At the PHC, District stated that the observation had taken place as scheduled. Given these facts, Student's motion to compel observation is denied as moot.

3. Compliant Facility. District has not yet certified that the facility(s) it will use for the hearing fully complies 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. District shall file its certification within five business days of the date of this order or inform OAH in writing if it is not able to certify that its facility complies with these laws.

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 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.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 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. THE PARTIES SHOULD SIMULTANEOUSLY EMAIL THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE 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 the evening prior to the hearing or the morning of the hearing.

IT IS SO ORDERED.

DATE: June 11, 2018

DocuSigned by:
Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings