BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ETIWANDA SCHOOL DISTRICT.	OAH Case No. 2019041065 ORDER GRANTING REQUEST FOR TELEPHONIC TESTIMONY OF DR. DIANN TACKETT

On April 24, 2019, Parent on behalf of Student (Student) filed a request for due process hearing (complaint) naming Etiwanda School District as respondent. On April 25, 2019, Student filed a motion to allow the telephonic testimony of Dr. Diann Tackett on the grounds that Dr. Tackett resides in Colorado. No opposition to the motion was received from Etiwanda.

Whether a witness may appear by telephone is a matter within the discretion of the ALJ. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Any party seeking to present a witness by telephone shall move in advance for leave to do so, unless the opposing party has stipulated that the witness may appear by telephone. Generally, the proponent of the witness must provide the proposed witness with a complete set of exhibit binders from all parties, containing all of each party's exhibits, prior to the hearing, and instructs the witness as to the rules regarding maintenance of Student's privacy with regard to the documents provided. The proponent of the testimony usually also ensures that the room from which the witness is testifying has sound equipment that allows all hearing participants to hear the witness, and that the witness is able to hear objections and rulings. The party hosting the hearing is normally asked to provide telephone equipment with speakerphone capability. However, depending on the circumstances other pre-requisites can be imposed depending on the circumstances of the hearing.

Good cause being found for telephonic testimony and no opposition having been received, the motion is GRANTED. However, presentation of the telephone testimony will be conditioned on whatever requirements are established by the administrative law judge at the prehearing conference.

DATE: April 30, 2019

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Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings