BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

GREENFIELD UNION SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2019100729

ORDER FOLLOWING PREHEARING CONFERENCE AND ORDER GRANTING REQUEST FOR CONTINUANCE

On November 4, 2019, Administrative Law Judge Kara Hatfield, Office of Administrative Hearings held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC. Darren Bogié, Attorney at Law, appeared on behalf of Greenfield Union School District. Mother appeared on behalf of Student. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

Greenfield moved to continue the hearing to December 2019 in a written motion filed October 28, 2019. During the PHC, Student orally moved to continue the hearing to January 2020 to afford Student time to acquire additional documents necessary to

participate in the hearing. Greenfield did not object to Student's motion in general, but opposed a continuance as long as Student requested.

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: December 30, 2019 at 10:00 AM

All other prehearing matters shall be addressed at the December 30, 2019 prehearing conference. All prehearing motions must be filed three business days before the PHC.

Due Process Hearing: January 7 and 8, 2020

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, but at this time shall not include January 9, 2020, due to the current unavailability of Greenfield's counsel. Whether January 9, 2020, will be added as a hearing date will be revisited during the December 30, 2019 PHC.

Hearing Location: 1624 Fairview Road, Bakersfield, California 93302

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. Greenfield shall file the required certification with seven days of this order 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.

LANGUAGE INTERPRETERS AND REASONABLE ACCOMMODATIONS

Neither party has requested a language interpreter. Mother indicated in Student's PHC Statement a request for reasonable accommodations under the Americans with Disabilities Act. During the PHC, Mother was provided the contact information below to immediately submit a request for accommodations.

A party or participant to this case, such as a witness, requiring reasonable accommodation to participate in a mediation or hearing may contact OAH at (916) 263-0880, or send an email to OAHADA@dgs.ca.gov as soon as the need is known. The e-mail should have "Request for Accommodation" in the Subject Line. Additional information concerning requests for reasonable accommodation is available on OAH's website at: https://www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Accommodations-at-OAH.

NOTICE OF NO ACTION

On October 24, 2019, Parent filed with OAH a letter addressed to Greenfield dated August 19, 2019. On October 25, 2019, Parent filed with OAH letters addressed to Greenfield dated April 4 and May 24, 2019. During the PHC, Parent clarified that the first letter she filed, dated August 19, 2019, was inadvertently transmitted to OAH while she tested the e-filing system. Parent clarified that the April 4, 2019 letter was inadvertently transmitted when she intended to e-file a proof of service document related to another filing. And Parent stated she e-filed the May 24, 2019 letter to respond to an allegation in Greenfield's October 18, 2019 complaint related to homeschool. Parent did not intend any of these letters to be construed as motions to OAH. The ALJ advised Parent if she desired OAH to consider these letters during the due process hearing, she needed to include them in Student's exhibit list and binders.

Parent stated she was going to file by U.S. Mail an amended exhibit list, including the three letters.

Therefore, OAH will take no action regarding the three letters addressed to Greenfield, which Parent filed with OAH on October 24 and 25, 2019.

Additionally, Greenfield's October 28, 2019 Request for Judicial Notice of the OAH Decision in Case No. 2018021003 will be deferred until the December 30, 2019 PHC.

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.

DATED: November 6, 2019

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Kara Hatfield
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Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings