BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. PALO ALTO UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017101215 ORDER FOLLOWING PREHEARING CONFERENCE GRANTING REQUEST FOR CONTINUANCE; SETTING PREHEARING CONFERENCE AND HEARING DATES; GRANTING CHANGE IN VENUE; AND DENYING MOTION TO QUASH AS MOOT

On March 9, 2018, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Daniel R. Shaw, Attorney at Law, appeared on behalf of Parents and Student. Elizabeth J. Rho-Ng, Attorney at Law, appeared on behalf of Palo Alto Unified School District. The PHC was recorded.

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

1. Palo Alto's Request for Continuance. At the start of the PHC, Palo Alto moved to continue the hearing date currently scheduled for March 20, 2018, as it is engaged in an on-going due process hearing, and Ms. Rho-Ng has been ordered to appear in that matter the week of March 12, 2018, through March 20, 2018. The on-going matter was delayed due to the unexpected illness of the ALJ assigned to that matter. Student opposed the continuance request.

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).)

Palo Alto represents that it learned that its ongoing hearing would conflict with the current matter on March 5, 2018; informed Student of this conflict; and attempted to obtain a

stipulation to a continuance. Good cause is found as to why Palo Alto did not bring its motion to continue three business days prior to today's appearance. Palo Alto's participation in an on-going due process matter before OAH and the unavailability of its counsel because of this conflicting hearing, constitutes good cause for a brief continuance. In light of the hearing continuance, Student requested that the PHC be continued to afford him the opportunity to resume his participation in a pre-paid professional conference. Palo Alto opposed Student's request to continue the PHC. The PHC was continued over Palo Alto's objection. This matter was continued to the following dates:

Prehearing Conference:	March 16, 2018. At 10:00 a.m.
Due Process Hearing:	March 26, 2018, at 1:30 p.m., March 27-29, 2018, at 9:00 a.m., April 4-5, 2018, at 9:00 a.m., and continuing day to day, Monday through Thursday, at the discretion of the ALJ.

2. Change in Venue. On March 5, 2018, Palo Alto filed a letter notification that it was changing the hearing location to a local middle school. This notice is deemed a motion to change venue. Student did not file an opposition.

Education Code section 56505, subdivision (b), provides that a special education due process hearing "shall be held at a time and place reasonably convenient to the parent or guardian and the pupil." There is no indication that the change in location will cause any inconvenience to Student or his family. The hearing shall take place at Jordan Middle School located at 750 N. California Avenue, Palo Alto, California, 94303, in conference room N-1.

As ordered in the scheduling order, Palo Alto shall provide a facility for the hearing that fully complies with the Americans with Disabilities Act of 1990 (42 U.S.C.A. § 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. Palo Also has filed a written certification that the proposed facilities comply with the law.

3. 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.

4. Student's Motion to Quash. On March 6, 2018, Student filed a motion to quash subpoenas duces tecum issued by Palo Alto dated February 28, 2018, and directed to Dr. Rebecca Fineman of Mosaic Child and Family Therapy Services and Rachel Wylde of Compass High School. The subpoenas that Student sought to quash ordered the witnesses to

appear and produce records at the prior hearing location of the District's Office on the previously scheduled date of March 20, 2018. Although the ALJ granted Palo Alto leave to file a written opposition by close of business March 9, 2018, the ALJ now denies the motion to quash as moot. Because this matter has been continued to March 26, 2018, and because of the change in hearing location, Palo Alto will need to issue new subpoenas duces tecum to compel the appearance of witnesses at hearing and the production of documents. Student may re-file his motion to quash if Palo Alto issues another subpoena duces tecum to Mosaic or Compass High.[1]

5. Other Matters. All other matters relevant to preparing for hearing, including clarification of the issues and proposed remedies, and identification of the witnesses and exhibits will be address at the telephonic PCH on March 16, 2018. The parties are reminded that any further motions must be filed three business days prior to the PHC of March 16, 2018, or must establish good cause as to they were not filed in a timely manner.

IT IS SO ORDERED.

DATE: March 9, 2018

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Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

[1] Following the PHC, Palo Alto filed a notice that it was withdrawing its February 28, 2018 subpoenas duces tecum.