BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: SAN MATEO FOSTER CITY SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2016080688 ORDER FOLLOWING PREHEARING CONFERENCE, GRANTING REQUEST FOR CONTINUANCE AND SETTING MEDIATION, PREHEARING CONFERENCE, AND HEARING DATES

On September 2, 2016, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Lenore Silverman, Attorney at Law, appeared on behalf of San Mateo Foster City School District. Father appeared on behalf of Student. Mother did not appear.[1] The PHC was recorded.

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

1. San Mateo Foster City's Request for Continuance. On August 30, 2016, San Mateo Foster City filed a request to continue the hearing date based on the parties' desire to participate in mediation and because of the unavailability of counsel. Both parties were afforded the opportunity to be heard as to the requested continuance. Father did not oppose the request. This is an initial 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

[1] The ALJ called Mother at 3:00 p.m. Mother answered but the call was disconnected. The ALJ attempted to reach Mother two more times at 3:05 p.m. and 3:10 p.m. Both calls went to an automatic message system with an outgoing message in Spanish. The ALJ left two messages informing Mother that the PHC was being convened and inviting her to call OAH if she wished to participate. The ALJ disclosed to the parties that she had previously been assigned as the mediator and in that capacity had a brief, non-substantive conversation with Mother regarding the scheduling of the August 30, 2016 mediation. At that time, Mother communicated with the ALJ in English. Neither San Mateo Foster City nor Father had any information as to whether Mother requires a Spanish interpreter.

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).)

San Mateo Foster City established good cause for a continuance. All dates were vacated and the matter was set as follows:

Mediation:	September 28, 2016, at 9:30 a.m.
Prehearing Conference:	October 17, 2016, at 1:00 p.m.
Due Process Hearing:	October 25, 2016, at 9:30 a.m., and October 26, 2016, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

The mediation and the hearing shall take place at San Mateo Foster City's District Office located at 1170 Chess Drive, Foster City, California, 94404. As ordered in the scheduling order, San Mateo Foster City 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. San Mateo Foster City has not yet certified that the facilities used for this case comply with the law. San Mateo Foster City shall file a written certification with OAH within two days of the date of this order.

2. 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.

3. Other Matters. All other matters relevant to preparing for hearing, including clarification of the issues and identification of witnesses and exhibits, will be addressed at the telephonic PHC on October 17, 2016. Parents are ordered to file a PHC statement with OAH at least three business days prior to the PHC, and serve a copy on San Mateo Foster City's counsel and on each other. Father represented that Mother does not wish to be a party to this matter or to receive any further correspondence regarding this matter. The parties are advised that any motions or requests must be submitted to OAH in writing and contain a proof of service indicating that a copy of the request has been provided to all parties.

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. Dates for the PHC and hearing will not be vacated unless OAH receives a letter of withdrawal or request for dismissal from San Mateo Foster City, or unless otherwise ordered.

IT IS SO ORDERED.

DATE: September 6, 2016

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Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings