BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: OAKLAND UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT,	
PARENT ON BEHALF OF STUDENT, v. OAKLAND UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017030950 OAH Case No. 2017050146 ORDER FOLLOWING PREHEARING CONFERENCE; CONTINUING ALL DATES; AND ORDERING RESPONSE TO STUDENT'S COMPLAINT

On September 1, 2017, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. David Mishook, Attorney at Law, appeared on behalf of Oakland Unified School District. Nicole Hodge Amey, Attorney at Law, appeared on behalf of Parent and Student. The PHC was recorded.

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

1. Good Cause for Continuance. This matter is currently scheduled for an expedited hearing beginning on September 7, 2017. The expedited hearing schedule is likely to require a second day of hearing which will conflict with the non-expedited hearing schedule.

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).)

Good cause appearing, this matter was continued to the following dates:

Prehearing Conference:	October 2, 2017, at 1:00 p.m.
Due Process Hearing:	October 17, 18, 19, 24, 25, 26, 31, and November 1, 2017, and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.[1]

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. Response to Student's Complaint. Following the PHC, the ALJ noted that there is no indication that Oakland has responded to Student's request for a due process hearing. Pursuant to *M.C. v. Antelope Valley Union High School District* (9th Cir. 2017) 852 F.3d 840, Student's case should not proceed to a due process hearing until Oakland either files a response to Student's complaint, or shows proof that it provided a written response to Student as required by 20 U.S.C. § 1415(c)(2)(B)(i)(I). **Oakland is ordered to file with OAH, a response to Student's complaint, or proof of having provided a written response to Student, not later than September 8, 2017.**

4. 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 2, 2017. During the PHC, Oakland withdrew its August 30, 2017 Motion to Strike Student's Prehearing Conference Statement/Motion to Schedule a Status Conference Regarding Student's Legal Representation.

[1] At the PHC, the parties will discuss substituting a Monday and/or Friday as hearing days.

5. 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 PHC and hearing dates. Dates for the PHC and hearing will not be cancelled unless both parties withdraw their respective cases or otherwise request dismissal of both cases, or unless otherwise ordered.

IT IS SO ORDERED.

DATE: September 1, 2017

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Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings