BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015100577 ORDER FOLLOWING PREHEARING CONFERENCE; GRANTING REQUEST FOR CONTINUANCE; AND SETTING PREHEARING CONFERENCE AND HEARING DATES

On November 6, 2015, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Parent Advocate Darlene Anderson appeared on behalf of Parent and Student. Parent and Dale McKinney, Attorney at Law, were also present. Sarah L. Garcia, Attorney at Law, appeared on behalf of Sacramento City Unified School District. The PHC was recorded.

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

1. Sacramento City's Request for Continuance. This matter was set to begin hearing on November 18, 2015. On November 5, 2015, Sacramento City filed a motion to continue the dates in this matter due to the unavailability of counsel and its Director of Special Education, and the need to timely receive a complete PHC statement from Student identifying the specific issues for hearing; the witnesses Student intends to call and their proposed areas of testimony; and the exhibits that Student intends to use at hearing. Student opposed the continuance. This is the 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 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).)

Sacramento City established good cause for a continuance in this matter. All dates were vacated and the matter was continued to the following dates:

Prehearing Conference:	January 22, 2016, at 10:00 a.m.
Due Process Hearing:	February 2, 2016, at 9:30 a.m. and February 3, 2016, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

The hearing shall take place at Sacramento City's District office located at 5735 47th Avenue, Sacramento, California, 95824. As ordered in the scheduling order, the named local educational agency was to provide a facility for the hearing that fully complies 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. Sacramento City failed to certify that it would provide a facility for this case that complied with the law. **The local educational agency shall inform OAH within two days of the date of this order it is able to certify that it will provide a facility that complies with the law.**

Prior to the beginning of the hearing, Sacramento City shall assist the ALJ to ensure that the hearing room is configured into a courtroom setting, including (1) a table for Student and his representatives; (2) a table for District's legal representative and special education representative; (3) a table for the witness; and (4) a table for the ALJ, near an electrical outlet. Sacramento City shall also make reasonable effort to ensure that drinking water and tissue are available to all parties, witnesses and the ALJ.

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 PHC on January 22, 2016. Student is required to file a PHC statement at least three business days prior to the PHC and provide a copy to Sacramento City's counsel. As indicated in the October 19, 2015 Scheduling Order, the PHC Statement shall include the following:

a. Each party's estimate of the time necessary to complete the Due Process Hearing;

b. A concise statement of the issues that remain to be decided at the Due Process Hearing and the proposed resolution of such issues, **based upon those issues raised in the due process hearing request**;[1]

c. The name of each witness the party may call at the Due Process Hearing, a brief summary of the subject of the expected testimony of the witness, and a description of the issue to which the testimony of the witness relates;

d. The name and address of each expert witness the party intends to call at the Due Process Hearing, a brief summary of the opinion that the expert is expected to give, and a description of the issue to which the testimony of the expert relates;

e. A list of documentary evidence that the party intends to present, and a description of any physical or demonstrative evidence; and

f. The need for an interpreter or special accommodation at the due process hearing

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 cancelled unless OAH receives a letter of withdrawal or request for dismissal from Student, or unless otherwise ordered.

IT IS SO ORDERED.

DATE: November 9, 2015

/s/
THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

[1] As Student is not represented by counsel, he was advised that if he wishes to file a motion to amend and an amended complaint, Student may contact OAH to provide a mediator to assist in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505, subd. (e)(6).)