BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017050975
v.	ORDER FOLLOWING PREHEARING CONFERENCE AND GRANTING MOTION TO CONTINUE PREHEARING CONFERENCE AND DUE PROCESS HEARING
OCEAN VIEW SCHOOL DISTRICT.	

On July 7, 2017, a telephonic prehearing conference was held before Administrative Law Judge Laurie Gorsline, Office of Administrative Hearings. Monique Fierro, Attorney at Law, appeared on behalf of Student. Kristin Meyers, Attorney at Law, appeared on behalf of District. The PHC was recorded.

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

1. Motion to Continue, Hearing Dates, Times, and Location. On June 30, 2017, District filed an initial motion to continue the Prehearing Conference and Due Process Hearing on the grounds that: (1) two of District's witnesses are unavailable on the dates scheduled for hearing due to pre-paid vacations; and (2) District's counsel will be unavailable due to her engagement in another due process hearing scheduled to begin next week, prior commitments in other cases and a pre-paid vacation. Student filed no written opposition, and at the Prehearing Conference agreed to the requested continuance.

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. (See Cal. Rules of Court, rule 3.1332(c).)

Good cause having been demonstrated, the motion to continue was granted as follows:

Prehearing Conference: The telephonic prehearing conference is continued to **September 25, 2017 at 3:00 p.m.** OAH will initiate the call. Prehearing Conference Statements shall be filed and served no later than three business days prior to the Prehearing Conference.

Due Process Hearing: The Due Process hearing shall take place on **October 3, 4, 5, 10 and 11, 2017,** and continue day to day, Monday through Thursday, at the discretion of the ALJ. The hearing shall take place at:

Ocean View School District
4200 Olds Road
Oxnard, CA 93033

The hearing shall begin at 9:30 a.m. the first day of the hearing and at 9:00 a.m. all other days, unless otherwise ordered.

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.

2. Service of Student's Prehearing Conference Statement. During the Prehearing Conference, District's counsel stated that they did not receive a copy of Student's Prehearing Conference Statement. Student's counsel was ordered to provide a duplicate copy of Student's Prehearing Conference Statement to District's counsel, specifically, Sundee Johnson and Kristin Meyers by no later than **July 11, 2017.**

3. District Facility Certification. As ordered in the scheduling order, the named local educational agency is 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. At the time of the Prehearing Conference, the named local educational agency failed to certify it would provide a facility for this case that complied with the law. **District shall certify to OAH by way of a certification signed under penalty of perjury that its hearing facilities comply with the law, or notify OAH that it is unable to comply with this order, by no later than July 11, 2017.**

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. In addition, if a settlement is reached 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 P.M. THE DAY PRIOR TO 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. THE PARTIES SHOULD SIMULTANEOUSLY **FAX THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT THE FAXINATION LINE at 916-376-6319.**

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 the evening prior to the hearing or the morning of the hearing.

If the parties settle the matter subject to board approval, in addition to a signed copy of the signature page of the settlement agreement as noted above, the parties shall submit a request for a status conference and provide the date of the next board meeting. OAH will not cancel the hearing dates without this information.

5. Failure to Comply. The failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: July 7, 2017

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LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings