BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2017080948 ORDER FOLLOWING PREHEARING CONFERENCE; GRANTING REQUEST FOR CONTINUANCE; SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING; GRANTING REQUEST TO COMPEL PRODUCTION OF EDUCATIONAL RECORDS

On December 29, 2017, a telephonic prehearing conference was held before Administrative Law Judge Paul H. Kamoroff, Office of Administrative Hearings. Cindy K. Lane, Attorney at Law, appeared on behalf of Parents and Student. Courtney M. Brady, Attorney at Law, appeared on behalf of San Dieguito Union High School District. The PHC was recorded.

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

1. Request for Continuance: At the beginning of the prehearing conference, Student requested a continuance of the hearing dates, based upon District's delay in providing Student a complete copy of his educational file. District's attorney confirmed that District has had difficulty providing Student's educational records due to the winter break and the voluminous amount of documents included in Student's file.

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).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other

pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is granted. The hearing dates are vacated and shall be reset as follows:

Prehearing Conference:	February 16, 2018, at 1:00 p.m.
Due Process Hearing:	February 27, and 28, 2018, and March 1, 2018, and continuing day by day thereafter, at the discretion of the Administrative Law Judge. The hearing shall begin at 9:30 a.m. the first day and at 9:00 a.m. each subsequent day, 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. Meet and Confer: The parties are ordered to meet and confer by 5:00 p.m. on January 12, 2018, regarding Student's educational records and witness scheduling for this matter.

3. Request for Educational Records: During the prehearing conference, Student requested an order to compel production of educational records. District did not dispute that is has had difficulty providing Student's educational records.

Parents may request copies of their child's educational records at any time, and are entitled to receive those copies within five business days of their request. (Ed. Code § 56504).) Educational records under Education Code, section 56504, include assessments and assessment protocols that are personally identifiable to the child, and must be disclosed to the parents. (Newport-Mesa Unified Sch. Dist. V. State of Calif. Dept. of Educ. (C.D. Cal. 2005) 371 F.Supp.2d 1170, 1175.)

Student's request is granted. District shall provide Student a complete copy of his educational records, including documents not yet already provided, by 5:00 p.m. on January 10, 2018.

IT IS SO ORDERED.

DATE: January 3, 2018

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Paul H. Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings