BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. COACHELLA VALLEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018110505 ORDER FOLLOWING PREHEARING CONFERENCE CONTINUING THE PREHEARING CONFERENCE AND HEARING DATES AND ORDERING BOTH PARTIES TO SHOW CAUSE

On December 31, 2018, a telephonic prehearing conference was scheduled to be held at 1 p.m. before Administrative Law Judge Ted Mann, Office of Administrative Hearings. ALJ Mann attempted to reach Student's attorney, Warren Finn, Esq., by telephone at both his office number and cellphone number. Two calls were made to each number, but there was no answer and no subsequent return call to OAH, despite detailed voicemail messages being left at each number. ALJ Mann then attempted to reach Coachella Valley's attorney, Karen Gilyard, Esq., by telephone at both her office number and cellphone number. At her office number, there was a message to incoming callers indicating that the office was closed for the holidays. ALJ Mann also made two calls and left two voicemail messages for Ms. Gilyard at the cellphone number on file for her. Ms. Gilyard did not attempt to contact OAH. Neither party filed a prehearing conference statement as ordered in the scheduling order. Coachella Valley has, to date, failed to file either an ADA certification for the hearing location, or a response to Student's due process complaint. The prehearing conference was not held due to the absence of both parties.

Based on discussion of the parties, the ALJ issues the following order:

1. Continuance of Prehearing Conference and Hearing Dates. Based on the non-appearance of both parties, the prehearing conference is rescheduled to January 7, 2019, at 3:00 p.m., and OAH shall initiate the PHC. Both Student and Coachella Valley are ordered to serve the prehearing conference statements on opposing party and OAH no later than 5:00 p.m. on Thursday, January 3, 2019. The hearing date of January 8, 2019 is continued by one week to January 15, 2018.

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. Order to Show Cause. Because Student did not appear for the prehearing conference, nor did he submit a continuance request for the prehearing conference, Student shall

serve on opposing party and OAH no later than 5:00 p.m. on Thursday, January 3, 2019, a response why this matter should not be dismissed with prejudice for failure to participate, prosecute or advance the matter, and a declaration under penalty of perjury why Student did not submit a prehearing conference statement or attend the December 31, 2018 prehearing conference. Failure to submit such a response shall be cause for the dismissal of this matter with prejudice. If Student submits a response, Coachella Valley may submit a reply by 3:00 p.m. on January 4, 2019.

Because Coachella Valley did not appear for the prehearing conference, did not submit a continuance request for the prehearing conference, did not file a response with OAH to Student's due process complaint, and did not file an ADA certification for the hearing location, Coachella Valley shall serve on opposing party and OAH no later than 5:00 p.m. on Thursday, January 3, 2019, a response why Coachella Valley should not be subject to sanctions for failing to follow OAH rules and procedures regarding the referenced matters, along with a declaration under penalty of perjury why Coachella Valley did not submit a prehearing conference statement, file a response with OAH to Student's due process complaint, did not file an ADA certification for the hearing location, and did not attend the December 31, 2018 prehearing conference. Failure to submit such a response shall be cause for the imposition of sanctions. If Coachella Valley submits a response, Student may submit a reply by 3:00 p.m. on January 4, 2019.

3. 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 **EMAIL THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT** https://www.dgsapps.dgs.ca.gov/oah/oahsftweb **.**

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.

4. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: December 31, 2018

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Ted Mann
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TED MANN
Administrative Law Judge
Office of Administrative Hearings