BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. BAKERSFIELD CITY SCHOOL DISTRICT.	OAH Case No. 2019040201 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On May 13, 2019, Bakersfield City School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon the unavailability of Bakersfield City's counsel. Bakersfield City's counsel represents another school district in an earlier-filed due process hearing in OAH case number 2019030818, that begins on May 21, 2019, and which counsel expects to continue through May 30, 2019. Bakersfield City request that the due process hearing in this matter be continued to either July 23, 2019, or August 21, 2019, or a later date. On May 14, 2019, Parents on behalf of Student filed a non-opposition to the request to continue the due process hearing, but objected to a hearing date of August 21, 2019, as Student's counsel is unavailable.

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. All dates are vacated. This matter will be set as follows:

Prehearing Conference:	July 15, 2019, at 10:00 AM. Parties shall file prehearing conference statements on later than three business days prior to the prehearing conference.
Due Process Hearing:	July 23, 24, and 25, 2019, starting at 9:30 AM on the first day of hearing, and 9:00 AM on all other days, continuing day to day as needed, at the discretion of the Administrative Law Judge.

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.

IT IS SO ORDERED.

DATE: May 14, 2019

DocuSigned by:
Rommel P. Cruz
ROMMEL P. CRUZ
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Administrative Law Judge
Office of Administrative Hearings