BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PANAMA-BUENA VISTA UNION SCHOOL DISTRICT; BAKERSFIELD CITY SCHOOL DISTRICT.	OAH Case No. 2014100290 ORDER GRANTING PANAMA-BUENA VISTA UNION SCHOOL DISTRICT'S MOTION FOR CONTINUANCE OF NON-EXPEDITED HEARING AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On December 17, 2014, Panama-Buena Vista Union School District filed with the Office of Administrative Hearings a motion to continue the dates of the non-expedited portion of this matter. The initial hearing date is January 22, 2015, and this is the first request to continue the non-expedited matter. OAH received no opposition from Bakersfield City School District or Student.

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).)

Panama's attorney submitted a declaration under penalty of perjury, accompanied by authenticated evidence, which credibly established that counsel for all three parties met and conferred on December 15, 2014, and agreed to continue the non-expedited portion of this matter to specific dates in mid-April 2015, which is within 90 days of the original hearing date. However, Student's attorney, Nicole Amey, later declined to sign a joint request for

continuance for those dates, asserting to counsel for Bakersfield that she might be dismissing Bakersfield, and therefore the remaining parties could ask OAH for earlier dates. Ms. Amey's refusal to sign the joint request for continuance necessitated the filing of this motion by Panama.

Because OAH is not conducting hearings the last week of January for pre-scheduled judge's training, the non-expedited hearing, which was scheduled to begin on January 22, 2015, would have had to have been continued for at least one week after the first day. OAH is currently granting routine continuance requests to late March and early April. The dates requested are therefore reasonable. Accordingly, good cause exists to grant the motion to continue. The request is:

☒ Granted. All dates in the non-expedited matter are vacated. The requested dates have been modified to allow the hearing to proceed on consecutive days, Monday through Thursday. This matter will be set as follows:

Pre-Hearing Conference:	April 3, 2015 at 10:00 AM. The Parties shall comply with the original Scheduling Order in the non-expedited matter and file timely Pre-hearing Conference statements.
Due Process Hearing:	April 13, 14, 15, 16, and 20, 2015, and continuing Monday through Thursday as needed at the discretion of the hearing Administrative Law Judge. The first day of hearing will begin at 1:30 p.m.; all other hearing dates will begin at 9:00 a.m. unless otherwise ordered.

The dates for the expedited hearing in this matter are confirmed.

IT IS SO ORDERED.

DATE: December 23, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings