BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: RIVERDALE JOINT UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018030746 ORDER FOLLOWING PREHEARING CONFERENCE AND CONTINUING PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

On April 2, 2018, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Charles Marson, Office of Administrative Hearings. Kathleen McDonald, Attorney at Law, appeared on behalf of the Riverdale Joint Unified School District. Student's Mother and Father appeared on behalf of Student. The PHC was recorded.

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

1. Motion for Continuance. During the PHC, Parents requested a continuance of the PHC and the due process hearing on the grounds that they have had insufficient time to prepare for the hearing (now set for April 11, 2018), and that they have been seeking an attorney to represent them but have not yet been successful. Riverdale opposed the request, citing the length of time the dispute has been pending between the parties, its efforts to bring about a resolution, and concern that Parents sought simply to delay the hearing.

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).)

Student has shown good cause for a continuance. While Riverdale's arguments are reasonable, Parents have been attempting to secure legal representation. The request for due process hearing was filed on March 16, 2018, in English. As Parents' primary language is Spanish, the hearing request will be translated and served on parents. Additionally, the matter has been pending only for two weeks. Parents are entitled to a reasonable time to seek representation.

The requested continuance is therefore granted. All dates are vacated. This matter will be set for PHC on May 7, 2018, at 1:00 p.m., and for due process hearing on May 15 and 16, 2018, starting at 9:30 a.m. on the first day of hearing and 9:00 a.m. on subsequent days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

2. All other matters deferred. The resolution of all other matters is deferred to the continued PHC on May 7, 2018, at 1:00 p.m.

IT IS SO ORDERED.

DATE: April 3, 2018

DocuSigned by:
Charles Marson
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CHARLES MARSON
Administrative Law Judge
Office of Administrative Hearings