BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: STANISLAUS UNION ELEMENTARY SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH CASE NO. 2013050308 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING NEW DATES

On May 28, 2013, Parents, on behalf of Student, filed a request to continue the dates in this matter based upon Student's father's unsworn assertion that he has been called up to provide support to the United States Marine Corps, starting May 25, 2013, and that Student's sibling is scheduled for surgery in July 2013. Parents request a hearing date on either October 15 or 22, 2013, with a prehearing conference on September 25 or 30, 2013, and mediation on June 19 or 26, 2013. On May 29, 2013, Stanislaus Union Elementary School District filed a non-opposition to the continuance, but opposed Parent's requested hearing dates, and requested hearing dates no later than August 12, 2013.

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. However, Parent's unsworn assertions do not sufficiently establish good cause for a lengthy delay to extend the hearing dates to October 2013. Parents may request an additional delay by submitting a sworn declaration with sufficient facts to justify a lengthy delay, including a copy of official documents such as a letter from father's command or military orders to verify his current status. Parents submitted a Letter of Appreciation from father's command for his past service to the Marine Corps, which is insufficient to show his current status. This matter will be set as follows:

Mediation:	June 26, 2013 at 9:30 AM
Prehearing Conference:	August 5, 2013 at 1:00 PM
Due Process Hearing:	August 12, 2013 at1:30 PM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: May 29, 2013

/s/

TROY K. TAIRA
Administrative Law Judge
Office of Administrative Hearings