BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Consolidated Matters of:<br><br>PARENT ON BEHALF OF STUDENT,<br><br>v.<br><br>TEMECULA VALLEY UNIFIED SCHOOL DISTRICT, | OAH Case No. 2016100111 |
| TEMECULA VALLEY UNIFIED SCHOOL DISTRICT,<br><br>v.<br><br>PARENT ON BEHALF OF STUDENT. | OAH Case No. 2016120478<br><br>ORDER GRANTING IN PART REQUEST FOR CONTINUANCE |

On February 21, 2017, the parties filed a joint request to continue the dates in this matter with the Office of Administrative Hearings, based upon the unavailability of counsel for Student and that Temecula Valley Unified School District will be on Spring Break on the scheduled hearing date of April 4, 2017. OAH had granted the parties' previous continuance request for Student's Case on November 10, 2016, and set the matter for hearing on February 14 – 16, 2017. On December 19, 2016, OAH consolidated Student's Case and District's Case and had the consolidated matter set to proceed on the dates in the November 10, 2016 continuance order. On February 5, 2017, OAH granted the parties' separate requests to amend their respective complaints, and issued a new scheduling order.

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 in part. All dates are vacated. While parties established that District is on Spring Break during the week of April 3, 2017, and District witnesses are not available, parties did not establish their unavailability for hearing until May 15, 2017. Further, Student's case was filed on September 29, 2016, and the parties' requested hearing dates would mean that any decision issued after hearing would be nine months after the filing of the initial complaint. This goes against the speedy resolution mandate of the Individuals with Disabilities Education Act. Therefore, this matter will be set as follows and take precedent over later filed cases:

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| Mediation: | March 16, 2017, at 9:30 AM |
| Prehearing Conference: | March 27, 2017, at 10:00 AM |
| Due Process Hearing: | April 11, 2017, at 9:30 AM, April 12 and 13, 2017, at 9:00 AM, and continuing day to day, Monday through Thursday, 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: February 21, 2017

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings