BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TEHACHAPI UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018070708 ORDER GRANTING JOINT REQUEST FOR CONTINUANCE AND SETTING DUE PROCESS HEARING DATES

Administrative Law Judge Alexa J. Hohensee heard this matter in the City of Tehachapi, California on September 25, 26 and 27, 2018. The matter was continued for further hearing to October 4, 2018. The ALJ and the parties discussed on the record that one of Student's experts might be unavailable on October 4, 2018, and the ALJ instructed the parties to file a joint request for continuance if the witness was unavailable on that date.

On October 2, 2018, the parties filed a joint request to continue the dates in this matter to mutually agreed dates of October 16 and 17, 2018.

ALJ Hohensee is unavailable due to a medical appointment on October 16, 2018, that could not be rescheduled after the joint request for continuance was received.

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 unavailability of an expert witness for Student is good cause for continuance of the due process hearing.

The request for continuance is **granted, to the dates specified**. The due process matter hearing in this matter will proceed on **October 17 and 18, 2018**.

The hearing shall take place at Tehachapi's offices located at 300 South Robinson Street, Tehachapi, California 93561. The hearing shall begin at 9:30 a.m. on October 17, 2018, and at 9:00 a.m. on October 18, 2018.

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: October 3, 2018

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Alexa Hohensee
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ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings