BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TUOLUMNE COUNTY CALIFORNIA CHILDREN'S SERVICES.	OAH CASE NO. 2012100238 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On March 4, 2013, the Tuolumne County California Children's Services (CCS) filed a request to continue the dates in this matter on the grounds of unavailability of an expert witness. The motion was heard on the record on March 6, 2013. Colleen Snyder, Attorney at Law, appeared on behalf of Student. Donald R. Aaron, Attorney at Law, appeared on behalf of CCS. Student did not oppose the request for continuance. The undersigned informed the parties that this matter has been pending since October 2012, and the Office of Administrative Hearings (OAH) was reluctant to allow the matter to continue for any substantial amount of time. The parties discussed dates and their availability with OAH.

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. This matter will be set as follows:

Prehearing Conference:	April 22, 2013, at 1:30 PM
Due Process Hearing:	May 7 – 9, 2013, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: March 6, 2013

/s/

BOB VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings