BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2019040859
v.	ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE, AND HEARING DATES
LOMPOC UNIFIED SCHOOL DISTRICT.	

On April 18, 2019, Student filed this matter with the Office of Administrative Hearings. On June 6, 2019, Lompoc Unified School District requested a hearing continuance in the matter. Lompoc's counsel stated in a declaration under penalty of perjury that she alone was authorized to represent Lompoc in this matter. Further, Lompoc's counsel was currently in another OAH hearing which would continue into next week including June 11, 2019, the first hearing day in this matter. This case had not been previously continued. On June 6, 2019, Student's counsel advised OAH she would not be filing a response to Lompoc's hearing continuance request.

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 reviewed the request for good cause and considered all relevant facts and circumstances. Lompoc demonstrated good cause for a brief hearing continuance. The motion to continue is granted. All dates are vacated. The new prehearing conference and hearing dates are as follows:

Prehearing Conference: August 23, 2019, at 10:00 a.m.

Due Process Hearing: September 10, 11, and 12, 2019 continuing day to day, at the discretion of the ALJ. The hearing shall take place at Lompoc's office located at 1301 North A. Street, Lompoc, CA 91406. The hearing shall begin at 9:30 a.m. and end at 5:00 p.m. on the first day of the hearing and shall begin at 9:00 a.m. all other days, and end at 4:30 p.m., unless otherwise ordered.

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: June 6, 2019

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Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings