BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
VISTA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2018010196
v.	ORDER FOLLOWING PREHEARING CONFERENCE; GRANTING REQUEST FOR CONTINUANCE; SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING
PARENT ON BEHALF OF STUDENT.	

On January 22, 2018, a telephonic prehearing conference was held before Administrative Law Judge Linda Johnson, Office of Administrative Hearings. Sarah Orloff, Attorney at Law, appeared on behalf of Vista Unified School District. Parent appeared on behalf of Student.[1] The PHC was recorded.

Based upon discussion with the parties, the ALJ issues the following order:

1. District's Request for Continuance. On January 17, 2018, District requested to continue the hearing dates, based upon a scheduling conflict. District is currently scheduled to be in a due process hearing on an unrelated matter on January 23 through 31, 2018. During the PHC the parties discussed dates, however, Parent is unsure of her availability. Student's father is currently out of town but would like to participate in the hearing.

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

[1] Parent was assisted by a Spanish language interpreter.

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).)

District established good cause for a continuance and the request is granted. All hearing dates are vacated. The matter will be reset as follows[2]:

Prehearing Conference:	February 12, 2018, at 10:00 a.m.
Due Process Hearing:	February 22, 2018, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. Unless otherwise ordered, the hearing will commence at 9:30 a.m. on the first day and at 9:00 a.m. on all other days.

2. Notice to Witnesses. 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 was not properly notified of the hearing date or properly subpoenaed, as applicable.

3. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled PHC and hearing dates. Dates for the PHC and hearing will not be cancelled unless District withdraws its case or otherwise requests dismissal, or unless otherwise ordered.

IT IS SO ORDERED.

DATE: January 23, 2018

DocuSigned by:
Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings

[2] If after checking their schedule Parents are not available on the dates ordered they must contact District's attorneys to agree on new dates. Parents have until 5:00 p.m. on Friday, January 26, 2018, to meet and confer with District regarding dates and notify OAH.