BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: CORCORAN JOINT UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018010666 ORDER FOLLOWING PREHEARING CONFERENCE AND CONTINUING PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

On February 2, 2018, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Charles Marson, Office of Administrative Hearings. Kasmira Brough, Attorney at Law, appeared on behalf of the Corcoran Joint Unified School District. Cindy Crose Kliever, Attorney at Law, appeared on behalf of Student's Mother. The PHC was recorded.

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

1. Motion for Continuance. Corcoran filed this matter on January 18, 2018, naming Student and her Parents, and served it on Mother on January 20, 2018. OAH issued a scheduling order setting the PHC for February 2, 2018, and the due process hearing for February 13, 2018.

On January 31, 2018, one day after all PHC-related motions were due, Attorney Cindy Crose Kliever filed an appearance on behalf of Student's Mother and a motion for continuance on the ground that she had not had adequate time to study the case or draft and file a PHC statement, and was committed in another matter on the date currently scheduled for hearing. Corcoran did not oppose the motion continuance but did not agree to a continuance of the length sought by Parent. The motion was argued and submitted at the PHC.

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).)

Student has shown good cause for filing her motion to continue two days before the PHC rather than three, due to the short time her attorney has been involved and the fact that the attorneys were attempting to negotiate agreed-upon dates for the continuance.

Student, acting through Mother, has shown good cause for a continuance of the hearing, as her attorney has just appeared in this matter and requires more time to prepare and to file a PHC statement. The requested continuance is therefore granted. All dates are vacated. This matter will be set for PHC on March 26, 2018, at 3:00 P.M., and for due process hearing on April 3 and 4, 2018, starting at 9:30 A.M on the first day of hearing and 9:00 A.M. on subsequent days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

2. Father is named in the complaint but has not yet been properly served. Ms. Kliever expects to represent Father in this proceeding as well as Mother, but has not completed arrangements for that representation. Ms. Kliever will attempt to file a notice of representation of Father by February 7, 2018. If that notice is not filed by February 7, 2018, Corcoran will serve the complaint and this Order on Father at his separate address.

3. <u>All other matters deferred.</u> The resolution of all other matters is deferred to the continued PHC on March 19, 2018, at 10:00 A.M.

IT IS SO ORDERED.

DATE: February 2, 20189

DocuSigned by:
Charles Marson
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CHARLES MARSON
Administrative Law Judge
Office of Administrative Hearings