BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TEMPLETON UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017051280 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING HEARING DATES

On September 29, 2017, the parties jointly filed a request to continue the dates in this matter with the Office of Administrative Hearings. Student's counsel is in the midst of an expedited hearing which is not scheduled to conclude until Tuesday. The request asks for hearing to be continued to Wednesday October 4, 2017 at 1:30 to allow counsel time to travel and "get up to speed on the case" before beginning.

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).)

In this case, it is unnecessary to compress the hearings in the two cases to such an extreme and doing so will likely result in additional travel expense and time in the Templeton case which does not promote judicial economy. It is anticipated that completing the Templeton hearing will take three more days. Good cause exists to continue the case due to the conflict.

As such, **the request for continuance is GRANTED**. The hearing dates of October 3, 4 and 4, 2017, are vacated **and the case is continued for hearing beginning October 10. 2017 at 9:30 a.m., continuing October 11 and 12, 2017 at 9:00 a.m.** and then from day to day, Monday through Friday at the discretion of the Administrative Law Judge.

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: September 29, 2017

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Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings