BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TAHOE TRUCKEE UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018100935 ORDER GRANTING REQUEST FOR CONTINUANCE; VACATING JANUARY 8 HEARING DATE AND SETTING CONTINUED HEARING DATES

Administrative Law Judge Cynthia Fritz heard this matter in Truckee, California, on December 12 and 13, 2018. On December 13, 2018, the hearing was continued to December 18, 19, and 20, 2018.

As of the morning of December 17, 2018, the Office of Administrative Hearings was unable to procure a certified Spanish interpreter for the above continued dates, and the hearing was continued to January 8, 9, and 10, 2019.

On December 20, 2018, Tahoe Truckee requested a continuance to January 9, 10, and 15, 2018, due to unavailability of Corine Harvey, Director of Student Services, on January 8, 2018, for a mandatory administrator training. Further, the designated hearing room will also be used for the training and Tahoe Truckee does not have another room large enough to accommodate the hearing that day.

On December 28, 2018, Tahoe Truckee clarified its request for a continuance due to unavailability on January 8, 2019, and stated its availability was January 9, 10, 11, 14, 15, and 16, 2019. Student is not available on January 15, 2019.

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; 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).)

The Office of Administrative Hearings has reviewed the request for good cause and considered all relevant facts and circumstances. The request is GRANTED. The January 8, 2019, hearing date is vacated.

This matter will be continued and set as follows:

Due Process Hearing:	**January 9, 2019, at 9:30 a.m., and January 10 and 11, 2019, at 9:00 a.m., continuing day to day 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.

Parents are not presently represented by counsel. OAH has a handbook for the public that provides guidance for special education due process hearings which can be found at https://www.documents.dgs.ca.gov/oah/SE/Handbook.4.5.18.pdf. Parents are encouraged to consult this document.

IT IS SO ORDERED.

DATE: January 3, 2019

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Cynthia Fritz
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CYNTHIA FRITZ
Administrative Law Judge
Office of Administrative Hearings