BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018071234
v.	ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING
BELLFLOWER UNIFIED SCHOOL DISTRICT.	

On July 30, 2018, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Bellflower Unified School District. On July 30, 2018, OAH issued a Scheduling Order setting the due process hearing for September 25, 2018. On September 7, 2018, Bellflower filed a Motion to Continue the due process hearing due to the unavailability of its counsel. On September 12, 2018, Student filed an Opposition to Bellflower's motion.

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).)

Bellflower requests a continuance in this case because its counsel is simultaneously scheduled to appear in a due process hearing before OAH on September 25, 2018. The undersigned ALJ has verified Bellflower's assertion. The case Bellflower's counsel is scheduled to appear in on September 25, 2018, takes priority over the present case because it has an earlier filing date and has already been continued. Additionally, this is the first continuance requested in this case.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference: **November 5, 2018, at 3:00 PM.**

Due Process Hearing: **November 13, 14, and 15, 2018, at 1:30 PM on the first day and 9:00 AM on all subsequent days, continuing day to day, Monday through Thursday, as needed 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 17, 2018

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings