BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2017110183 ORDER PARTIALLY GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On October 31, 2017, Student filed a request for due process hearing (complaint) with the Office of Administrative Hearings naming San Dieguito Union High School District. On December 5, 2017, OAH granted the parties' request to continue this matter to January 23, 24, and 25, 2018. On January 16, 2018, OAH granted Student's motion to amend the complaint and reset the due process hearing to commence on March 13, 2018. On February 7, 2018, District filed a request to continue the dates in this matter to May 15, 2018, based upon unavailability of counsel. On February 9, 2018, Student opposed the request because of the significant delay. District submitted a reply brief on February 12, 2018.

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).)

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

☒ Granted in part. All dates are vacated. District's unavailability between March 13, 2018 and March 22, 2018, due to a previously scheduled due process hearing constitutes good cause for a short continuance. However, this matter takes precedence over more recently filed cases and District did not establish good cause for a two month continuance. This matter will be set as follows:

Prehearing Conference:	March 16, 2018 at 1:00 p.m.
Due Process Hearing:	March 27, 28, and 29, 2018 at 9:30 a.m. the first day and 9:00 a.m. all other days unless otherwise ordered and 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: February 13, 2018

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings