BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: CAPISTRANO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2014030104 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

On March 17, 2014, Parent, on behalf of Student, filed a request with the Office of Administrative Hearings (OAH), and supplemental documents on March 20, 2014, to continue the dates in this matter based upon her unavailability because she is representing herself in a civil litigation matter, scheduled for hearing on May 5, 2014. On March 20, 2014, Capistrano Unified School District (District) filed a response to the continuance that did not oppose a continuance, but did not agree to Student's requested hearing dates.

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.[1] Student established good cause for a continuance based on Parent's need to prepare for an upcoming civil trial, in which Parent represents herself. However, Student's requested dates that begin on either a Wednesday or Thursday are not practicable for a hearing that will take several days to complete. This matter will be set as follows:

Prehearing Conference:	May 23, 2014, at 1:00 PM
Due Process Hearing:	June 2, 2014, at 1:30 PM, June 3 through 5, 2014, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: March 21, 2014

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

[1] District's request to schedule the mediation for April 1, 2014, cannot be granted as mediation is voluntary and District did not agree to Student's proposed mediation date. The parties may contact OAH to request mediation on a mutually agreed date and time.