BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. FRESNO UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2012100242
FRESNO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2012100291 ORDER FOLLOWING PREHEARING CONFERENCE GRANTING MOTION TO CONTINUE AND SETTING NEW DATES

On May 20, 2013, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Margaret M. Broussard, Office of Administrative Hearings (OAH). Melody Hawkins, Attorney at Law, appeared on behalf of Fresno Unified School District (District). Mother appeared on behalf of Student. The PHC was recorded.

Based on discussion of the parties, the ALJ issues the following order:

1. Motion to Continue: This matter is set for hearing on May 29, 30 and June 4, 2013. On May17, 2013, Student filed a document with OAH noticing her non-opposition to a continuance request she apparently believed District had filed in this matter. No such request for continuance was filed with OAH. During the prehearing conference, the parties made a joint motion for a continuance. The District cited a scheduling conflict with another case in front of OAH during the same time period and Parent cited both a conflict with a federal case between the parties and her need to locate counsel.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020;

Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

There is good cause to continue the hearing due to the scheduling conflicts. However, only a short continuance will be granted. All dates are vacated. The parties agree to the following dates and the matter will be set as follows:

Prehearing Conference:	June 5, 2013 at 10:00 AM
Due Process Hearing:	June 24, 2013 at 1:30 PM, and June 25, 26, and 27, 2013 at 9:00 AM.

2. Notice to Witnesses: 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.

3. Other Matters: The District filed a PHC statement. Student is ordered to file a PHC statement as described in the initial scheduling order dated October 5, 2012, at least three business days prior to the PHC, now set for June 5, 2013. If the District wishes to file an amended PHC statement, it shall do so by May 31, 2013. All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits will be addressed at the PHC on June 5, 2013.

4. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. Dates for the PHC and hearing will not be cancelled until a letter of withdrawal or a request for dismissal with the signature page of a signed agreement has been received by OAH.

IT IS SO ORDERED.

Dated: May 20, 2013

/s/
MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings