BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS GATOS UNION ELEMENTARY SCHOOL DISTRICT.	OAH CASE NO. 2013080675 ORDER GRANTING REQUEST TO CONTINUE HEARING

Hearing in this matter began on January 29, 2014, before Administrative Law Judge (ALJ) Deidre L. Johnson, Office of Administrative Hearings (OAH). The hearing continued on January 30, and February 4 and 5, 2014. During the hearing on February 5, 2014, Student requested to continue the remainder of the hearing. The Los Gatos Union Elementary School District (Los Gatos) opposed the request.

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).)

The ALJ reviewed the request for good cause on the record and considered all relevant facts and circumstances. Counsel for Student requested additional time to prepare documentary evidence of Parents' expenditures in support of their request for reimbursement as a remedy in this case. Los Gatos opposed the request, arguing that Student failed to include such evidence in his exhibit binders, and Los Gatos would suffer prejudice because it has already examined multiple witnesses without the benefit of Student's documentary

evidence of costs and expenditures. However, Los Gatos received an excel spread sheet from Student on January 28, 2014, and has had knowledge of the amounts claimed for over a week, although unsupported by underlying documents. In weighing the equities, the ALJ determined that the interests of justice are served by a continuance to permit this case to be fully litigated on the merits. The request was therefore granted on the record.

ORDER

1. The hearing date of February 6, 2014, is vacated.

2. This matter is continued for completion of the hearing on March 18, 2014, at 9:30 a.m., and March 19 and 20, 2014, at 9:00 a.m.

3. The parties shall file with OAH and serve on each other their lists of proposed witnesses and additional documentary evidence, if any, not later than 5:00 p.m. on Monday, March 10, 2014.

4. The parties shall meet and confer prior to the start of the continued hearing as to the scheduling of witnesses and shall present their proposed schedule(s) at the outset of the hearing on March 18, 2014.

Dated: February 6, 2014

/s/
DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings