BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CHULA VISTA ELEMENTARY SCHOOL DISTRICT.	OAH Case No. 2017030442 ORDER FOLLOWING STATUS CONFERENCE, SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING, AND CONTINUING THE MATTER

On July 13, 2017, the parties entered into a settlement agreement, pending approval by the Chula Vista Elementary School District's Board. The Office of Administrative Hearings vacated all hearing dates, set the matter for a status conference and continued the case to August 30, 2017. On August 30, 2017, a status conference was held in which the parties informed OAH that the Board had rejected the settlement agreement and the matter should be set for hearing.

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).)

Here, the matter was originally continued due to settlement. The Board's rejection of the settlement is good cause to continue the matter to the hearing dates requested by the parties. Accordingly, the matter is continued and set as follows:

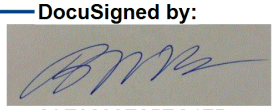
Mediation:	Parties may request mediation prior to hearing
Prehearing Conference:	October 23, 2017, at 1:00 PM

Due Process Hearing:	October 31 – November 2, 2017, starting at 9:30 AM, 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: August 30, 2017

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BOB N. VARMA
Division Presiding Administrative Law Judge
Office of Administrative Hearings