BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: FAIRFIELD-SUISUN UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017051304 ORDER GRANTING REQUEST FOR CONTINUANCE; SETTING PREHEARING CONFERENCE AND HEARING DATES; AND DENYING REQUEST TO SET A MEDIATION DATE

On June 13, 2017, the attorney for Fairfield-Suisun Unified School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon the unavailability of counsel and the representative for Fairfield-Suisun. The request was also made because the parties desire to meet in mediation because Parent had cancelled the earlier scheduled mediation. Also on June 13, 2017, Parent and Fairfield-Suisun (not the attorney for Fairfield-Suisun) filed a request to set a mediation date of July 6, 2017, which is after the currently scheduled hearing date. The request for mediation is being considered an agreement from Parent to the request for continuance. However, because the request to set a mediation date was signed by a represented party and was not filed by the attorney of record, it is denied without prejudice.

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. All dates are vacated. This matter will be set as follows:

Prehearing Conference:	July 10, 2017, at 1:00 p.m.
Due Process Hearing:	July 18, 2017 at 9:30 a.m., July 19, 2017, at 9:00 a.m., and July 20, 2017, at 9:00 a.m., 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: June 14, 2017

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Margaret Gibson
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MARGARET GIBSON
Presiding Administrative Law Judge
Office of Administrative Hearings