THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. HANFORD ELEMENTARY SCHOOL DISTRICT.	OAH Case No. 2018100372 ORDER GRANTING REQUESTS FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

On October 25, 2018, Hanford filed a request to continue the dates in this matter based upon the ground that during the due process hearing as now scheduled (for December 4, 2018), the Assistant Superintendent of Schools who oversees special education and attends due process hearings for Hanford will be recovering from surgery.

Student did not oppose the request, but on October 29, 2018, filed a request for continuance on the ground that Mother is expecting to give birth on December 24, 2018.

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 requests for good cause and considered all relevant facts and circumstances. The requests are:

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

Prehearing Conference:	January 14, 2019, at 10 a.m.
Due Process Hearing:	January 22, 23 and 24, 2019, starting at 1:30 p.m. on the first day of hearing and 9:00 a.m. on subsequent days, 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.

The parties have not yet requested mediation in this matter. They are encouraged to consider doing so.

IT IS SO ORDERED.

DATE: October 30, 2018

DocuSigned by:
Charles Marson
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CHARLES MARSON
Administrative Law Judge
Office of Administrative Hearings