BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

NORRIS SCHOOL DISTRICT,

OAH CASE NUMBER 2020010423

and

NORRIS SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2020060184

ORDER GRANTING REQUEST FOR CONTINUANCE

JUNE 26, 2020

On June 26, 2020, Student filed with the Office of Administrative Hearings, referred to as OAH, a request to continue the hearing in this matter. Student's motion follows the prehearing conference on June 19, 2020, during which the ALJ granted Student's motion to compel production of Student's educational records. Based on the parties' representation, the ALJ set the date for production for June 22, 2020. Norris did not timely produce the school records, and its statutory exhibit exchange was also delayed. As a result, Student asserts that he needs an additional week to review the documents and prepare for hearing. Norris filed a notice of non-opposition, requesting the week of July 14, 2020 for the start of hearing, based upon counsel's unavailability during the week of July 6, 2020. Norris's counsel represented that Student's counsel agreed to its proposed dates.

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. (Ed. Code, § 56505, subd. (f)(3); 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 or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The parties have established good cause for a short continuance. The current hearing dates will be vacated and the matter set for hearing on July 14, 15, and 16, 2020, by videoconference. The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, 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 their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or subpoena a witness.

The parties shall upload their proposed witness schedule to Caselines no later than 3:00 p.m. on Monday July 13, 2020.

IT IS SO ORDERED.

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Adrienne L. Krikorian
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Adrienne L. Krikorian
Administrative Law Judge
Office of Administrative Hearings