BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018020023
v.	ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND HEARING DATES
DEL MAR UNION SCHOOL DISTRICT.	

On January 30, 2018, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Del Mar Union School District. On February 16, 2018, OAH granted the parties first joint continuance request. On March 28, 2018, OAH granted the parties second joint continuance request. On May 22, 2018, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint), which OAH granted on May 25, 2018 and served along with a new scheduling order.

On June 14, 2018, the parties filed a third joint request to continue the dates in this matter with OAH, based upon the unavailability of District witnesses and counsel for each party.

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. Parties by way of declaration established good cause due to the unavailability of witnesses and counsel for each party. Due to the age of the case and the prior continuances and mediations, no further continuances shall be granted. This matter will be set as follows:

Prehearing Conference:	August 13, 2018, at 10:00 a.m.
Due Process Hearing:	August 28 – 30, 2018 and September 4 – 6, 2018. The hearing for all dates shall commence at 9:00 a.m., except for August 28, 2018, which shall commence and 9:30 a.m., and September 4, 2018, which shall commence at 1:30 p.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, 2018

DocuSigned by:
Peter Paul Castillo
F0BCD8A6A62C4E9...

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings