BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. RINCON VALLEY UNION ELEMENTARY SCHOOL DISTRICT.	OAH Case No. 2018050651 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING DUE PROCESS HEARING DATES

This matter was scheduled to go to hearing on June 18, 2018. On Sunday, June 17, 2018, Student faxed to the Office of Administrative Hearings a request for a continuance of the hearing. The request was filed on Monday morning, July 18, 2018. The request was based on the fact that a close relative of Student's attorney had passed away over the weekend, and Student's attorney was unavoidably required to be in Southern California through June 20, 2018, to attend to family matters. Early on June 18, 2018, Rincon Valley filed a non-opposition to the motion. This Order confirms an oral order granting the request to continue, made on June 18, 2018 shortly before the scheduled hearing was to begin, and specifies new hearing 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. (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. The hearing will be set for two days, as requested by Rincon Valley, instead of three days, as requested by Student. The ALJ's review of the file shows that many of the facts of the matter are not in dispute and can be established by

stipulations. This matter will be set for hearing on July 25 and 26, 2018, at 9:30 a.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.

No further prehearing conference is required.

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 19, 2018

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