BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ROSEDALE UNION ELEMENTARY SCHOOL DISTRICT.	OAH Case No. 2015090094 ORDER GRANTING IN PART REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND HEARING DATES

On November 9, 2015, Rosedale Union Elementary School District filed with the Office of Administrative Hearings a request to continue the hearing dates in this matter to January 19-21, 2016, based upon the unavailability of District's legal counsel due to other hearings, legal conferences and previously scheduled office absences. On October 12, 2015, Student opposed the request based upon the length of requested delay, and that District's special education director, who will be a witness in the hearing, is expected to be on maternity leave at that time.

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 in part. All dates are vacated. District established good cause for the initially set hearing date of October 27, 2015, due to the unavailability of its legal counsel.

However, District did not establish good cause for a continuance until the requested dates of January 19-21, 2016, especially due to the expected absence of its director of special education. Further, District's legal counsel's unavailability for hearing on November 19, 2015, in OAH Case no. 2015070661, is for an initially set hearing date caused by the granting of a motion to amend.[1] A balancing of scheduling priorities favors hearing this case due to the expected unavailability of District's director of special education. Therefore, this matter will be set as follows:

Prehearing Conference:	November 9, 2015, at 10:00 AM
Due Process Hearing:	November 16, 2015, at 1:30 PM, November 17 – 19, 2015, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. This matter is assigned to Administrative Law Judge Adrienne Krikorian.

IT IS SO ORDERED.

DATE: October 12, 2015

/S/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings

[1] The parties in OAH Case No. 2015070782 have agreed upon the dates set forth in District's motion.