BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: TAHOE TRUCKEE UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018020394 ORDER CONTINUING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On February 27, 2018, an Order Following Prehearing Conference was issued by Administrative Law Judge Theresa Ravandi in which the issues for hearing in this matter were detailed. On March 14, 2018, Tahoe Truckee moved to narrow the issue stated in the February 27, 2018 Order. On March 19, 2018, Tahoe Truckee filed evidence in support of its motion including two individualized educational programs and a variance agreement.

A second Prehearing Conference was held on March 23, 2018, at which time the ALJ continued the prehearing conference and due process hearing dates in order for all of the submitted evidence to be translated to Spanish and distributed to Parents. A briefing schedule was set and the ALJ ordered Parents to file any opposition to the motion by April 10, 2018 with Tahoe Truckee reply due no later than April 13, 2018.

On April 13, 2018, Tahoe Truckee requested to replace the October 10, 2016 IEP, set forth as Exhibit B to the Declaration of Corine Harvey in support of its motion with the October 12, 2017 IEP. Further, Tahoe Truckee asserted, without evidentiary support, that Parents have had the October 12, 2017 IEP in their possession since October 2017. Tahoe Truckee argued that Student has been provided an opportunity to respond to District's motion and requested a ruling on the motion by the time of the April 20, 2018 Prehearing Conference. No evidence was provided establishing that Parents are in possession of a Spanish version of the October 12, 2017 IEP.

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 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; 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).)

The undersigned has determined *sua sponte* that a continuance of the Prehearing Conference and Hearing in this matter is required in order to provide due process, specifically, to ensure that October 12, 2017 IEP presented to replace the original Exhibit B to Tahoe Truckee's motion has been provided in Parents' native language. Thus, good cause exists to grant a continuance of the prehearing conference and due process hearing in this matter so that the October 12, 2017 IEP can be translated into Spanish and distributed to Parents.

ORDER

All previously scheduled dates are VACATED. This matter will be set as follows:

Prehearing Conference:	May 4, 2018, at 1:00 p.m .
Due Process Hearing:	May 15, 2018 at 9:30 a.m., May 16 and 17, 2018, at 9:00 a.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: April 19, 2018

DocuSigned by:
Cynthia Fritz
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CYNTHIA FRITZ
Administrative Law Judge
Office of Administrative Hearings