BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018101112
v.	ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AD DUE PRCESS HEARING
SAN MARCOS UNIFIED SCHOOL DISTRICT.	

On December 5, 2018, the parties filed a joint first request for continuance to agreed dates on the grounds that the Executive Director of Special Education for San Marcos Unified School District is the District's representative and an essential witness in the case who will be out of state on the current dates. The request is supported by the Director's declaration in which she states she has personal knowledge of relevant facts raised in the complaint, she has a pre-planned and pre-paid trip out of state, she purchased her airline tickets before the Scheduling Order was issued and her travel plans cannot be changed.

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. This matter will be set as follows:

Prehearing Conference: February 22, 2019, at 1:00 PM

Due Process Hearing:	March 5, 6 and 7, 2019, beginning at 9:30 AM on the first day and at 9:00 AM all other days unless otherwise ordered, and continuing 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 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: December 06, 2018

DocuSigned by:
Marian H. Tully
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MARIAN H. TULLY
Presiding Administrative Law Judge
Office of Administrative Hearings