BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: CARLSBAD UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2018080664 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On August 16, 2018, Carlsbad Unified School District filed a request for due process hearing with the Office of Administrative Hearings, naming Parents on behalf of Student. On August 28, 2018, OAH granted the parties' joint request to continue the hearing dates for this matter. On January 2, 2019, Student filed a second request to continue the hearing dates, based upon the unavailability of Student's counsel since she will be in hearing on OAH Case No. 2018060952, which also involves Carlsbad. Carlsbad filed a non-opposition on the same day.

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) ; 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.[1] All dates are vacated as the parties established good cause due to the hearing conflict with OAH Case No. 2018060952. While both parties requested continued hearing dates in March 2019, neither party established good cause by way of declaration why this matter needs to be continued for two months. Therefore, this matter will be set as follows:

Prehearing Conference:	January 14, 2019, at 1:00 p.m.
Due Process Hearing:	January 23, and 24, 2019, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall begin at 9:30 a.m. the first day of the hearing and at 9:00 a.m. each subsequent day, unless otherwise ordered.

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: January 3, 2019

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Paul Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings

[1] Student failed to declare why this matter should be continued to March 19, 2019, as requested. OAH is obligated to provide a speedy resolution for due process hearings and therefore selected dates to timely complete this matter.