BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Consolidated Matters of:<br><br>PARENT ON BEHALF OF STUDENT,<br><br>v.<br><br>HACIENDA LA PUENTE UNIFIED SCHOOL DISTRICT, | OAH Case No. 2014120050 |
| HACIENDA LA PUENTE UNIFIED SCHOOL DISTRICT,<br><br>v.<br><br>PARENT ON BEHALF OF STUDENT. | OAH Case No. 2015030389<br><br>ORDER DENYING REQUEST FOR CONTINUANCE TRIAL SETTING CONFERENCE |

On November 19, 2014, Parent on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2014120050 (First Case), naming Hacienda La Puente Unified School District. On March 6, 2015, District filed a Request for Due Process Hearing in OAH case number 2015030389 (Second Case), naming Student. On March 6, 2015, District filed a Motion to Consolidate the First Case with the Second Case. On March 10, 2015, Student filed notice of non-opposition to District's request to consolidate. In the notice of non-opposition, Student requested a short continuance of the hearing and waived mediation. On March 12, 2015, OAH granted District's motion to consolidate, and Student's continuance request, setting the matter for mediation, prehearing conference and hearing on the dates in Second Case.[1]

On March 17, 2015, District filed a request to vacate dates in this matter and to set a trial setting conference because of issues in determining the availability of a witness. District's motion states that Student does not oppose the request.[2]

[1] The March 12, 2015 order stated that if the parties desired a further continuance of the hearing dates set in the Second Case, they should agree upon continued dates and submit an appropriate stipulation requesting the continuance.

[2] On March 18, 2015, the parties filed a joint request that restated the request in the March 17, 2015 motion.

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:

☒ Denied. All hearing dates and timelines shall proceed as calendared. Here, the parties have requested trial setting conference in which continued hearing dates can be determined. OAH is inclined to grant the continuance. However, trial setting conferences are set only in unusual cases and District failed to establish this. Therefore, the parties are required to submit prehearing conference statements, including any prehearing motions, and participate in the March 23, 2015 prehearing conference.

IT IS SO ORDERED.

DATE: March 18, 2015

**/s/**
PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings