BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: EAST SIDE UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2019010414 ORDER GRANTING REQUEST FOR CONTINUANCE

On January 18, 2019, Student filed a motion to continue the due process hearing in this matter until April 16, 2019. Student asserts that counsel was recently retained and additional time is needed to prepare a defense, Student's counsel is scheduled for another due process hearing scheduled to commence on February 5, 2019, the date currently set for hearing in this matter, and Parent is not available until April 16, 2019. No declaration accompanied the motion, the conflicting case name or number was not provided, nor the basis for Parent's alleged unavailability. On January 24, 2019, East Side Union High School District submitted a response. East Side does not oppose a brief continuance, but opposes continuing the matter until mid April noting the lack of evidence supporting the length requested.

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. Good cause was not provided to continue the matter until mid-April. In particular, no reason was given citing Parent's unavailability. This matter will be set as follows:

Prehearing Conference:	March 11, 2019, at 1 PM
Due Process Hearing:	March 19, 2019, at 9:30 AM, March 20-21, 2019, at 9 AM and continuing day to day, as needed at the discretion of the Administrative Law Judge.

All Prehearing motions are due no later than three business days prior to the prehearing conference.

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 25, 2019

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Joy Redmon
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JOY REDMON
Presiding Administrative Law Judge
Office of Administrative Hearings