BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: CAPISTRANO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2019020293 ORDER GRANTING JOINT REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND HEARING DATES

On February 19, 2019, the parties filed a joint request to continue the dates in this matter with the Office of Administrative Hearings, based upon the possibility that an upcoming Individualized Education Program team meeting would resolve the matter.

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. Although the possibility of settlement, by itself, is rarely sufficient good cause for a continuance, the parties put for forth adequate explanation. The parties jointly propose a brief delay in the date set for hearing so that an IEP team meeting may be held on February 22, 2019, which is the date of the prehearing conference in this case, and attending a prehearing conference on the day of the IEP team meeting will overshadow the meeting and prioritize the litigation over the work of the IEP team. For that reason, the parties seek only a two-week continuance of the dates.

Given the very brief duration of the continuance, the request shows good cause. Weighing the delay caused by the continuance against the possibility that this good-faith effort may resolve the matter and eliminate the need for further proceedings compels the conclusion that the joint request should be granted.

This matter will be set as follows:

Prehearing Conference:	March 11, 2019 at 10:00 AM
Due Process Hearing:	March 19-21, 2019, beginning at 9:30 AM the first day and at 9:00 AM all following days, 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: February 20, 2019

DocuSigned by:
Chris Butchko
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CHRIS BUTCHKO
Administrative Law Judge
Office of Administrative Hearings