BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. FOUNTAIN VALLEY SCHOOL DISTRICT.	OAH Case No. 2017110243 ORDER GRANTING REQUEST FOR CONTINUANCE

On November 3, 2017, Student filed a request for a due process hearing with the Office of Administrative Hearings, naming Fountain Valley Unified School District. OAH set the matter for hearing on December 28, 2017. On December 4, 2017, Student and District filed with OAH a joint request for a first continuance of the prehearing conference and hearing dates in this 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 parties' joint request is supported by evidence demonstrating unavailability of both counsel and some witnesses on the date set for hearing. Good cause being shown for a continuance of the matter, the parties' request is:

☒ Granted. The PHC and hearing dates are vacated. This matter will be set as follows:

Prehearing Conference:	March 2, 2018 at 1:00 p.m.
Due Process Hearing:	March 13, 14 and 15, 2018, commencing at 9:30 a.m. on March 13, 2018, and at 9:00 a.m. on all other days, unless otherwise ordered, and continuing day to day, Monday through Thursday, 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 5, 2017

DocuSigned by:

ROBERT G. MARTIN
Administrative Law Judge
Office of Administrative Hearings