BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. DEL MAR UNION SCHOOL DISTRICT,	OAH Case No. 2018020023
DEL MAR UNION SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018070786 ORDER GRANTING REQUEST FOR CONTINUANCE FOR DECISION ISSUANCE

On October 29, 2018, the Office of Administrative Hearings issued an Order Setting Telephonic Status Conference before Presiding Administrative Law Judge Peter Paul Castillo on November 2, 2017, to discuss the impact of a family medical emergency regarding Administrative Law Judge Darrell Lepkowsky after the conclusion of the hearing on the completion of the decision. In the alternative, the October 29, 2018, permitted the parties to state in writing whether they wished a two week continuance for ALJ Lepkowsky to complete the decision, reassigning the decision to another ALJ, or conducting a new hearing. On November 1, 2019, OAH received a joint statement from the parties requesting the continuance of the decision issuance.

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).)

On August 28, 29, 30, September 4, 5, 6, 12, 13, and 14, 2018, Student and Del Mar Union School District, participated in hearing before Administrative Law Judge Darrell Lepkowsky. The parties were granted a continuance of the hearing, for the submission of closing and reply briefs to October 15, 2018. The decision due date in this matter is November 20, 2018. As the parties have agreed to a continuance of the decision issuance, this matter is continued until December 7, 2018, for issuance of the decision in this matter. This order also vacates the Telephonic Status Conference scheduled for November 2, 2019.

IT IS SO ORDERED.

DATE: November 01, 2018

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings