BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. ALTA LOMA SCHOOL DISTRICT,	OAH Case No. 2017120979
ALTA LOMA SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017120261 ORDER FOLLOWING PREHEARING CONFERENCE, GRANTING CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On February 12, 2018, a telephonic prehearing conference was held before Administrative Law Judge Tara Doss, Office of Administrative Hearings. Tania Whiteweather, Attorney at Law, appeared on behalf of Student. Patti Schiffner, assistant to Ms. Whiteleather, was also present during the PHC. Maryam Rastegar, Attorney at Law, appeared on behalf of Alta Loma School District.

Based upon discussion with the parties during the PHC, the ALJ issues the following order:

1. Motion to Continue

On February 8, 2018, Student filed a Motion to Continue the due process hearing in the consolidated matters because Student's counsel was recently retained and had conflicts with previously scheduled hearings. On February 9, 2018, District filed a non-opposition to Student's motion but requested OAH convene the February 12, 2018 PHC so that the parties could select hearing dates. This is the first continuance request since OAH consolidated Student's case with District's case on December 29, 2017.

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. The consolidated matters will be set as follows:

Prehearing Conference:	**March 26, 2018, at 10:00 AM**
Due Process Hearing:	**April 3, 4, 5, and 10, 2018, at 9:30 AM on the first day, and 9:00 AM each following day, 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.

2. Other PHC Matters. All other PHC matters will be discussed at the PHC scheduled on March 26, 2018. The parties shall timely file their PHC statements in compliance with the Scheduling Order issued on December 28, 2017.

3. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035. THE

PARTIES SHOULD ALSO LEAVE CONTACT INFORMATION SUCH AS CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. THE PARTIES SHOULD SIMULTANEOUSLY **EMAIL THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT** https://www.dgsapps.dgs.ca.gov/oah/oahsftweb **.**

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement as noted above, the parties shall submit a request for a status conference and provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

4. Failure to comply with this Order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: February 12, 2018

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings