BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANTIOCH UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018050541 ORDER GRANTING REQUEST FOR CONTINUANCE

On September 9, 2018, Antioch Unified School District filed with the Office of Administrative Hearings a request to continue the hearing dates in this matter one week, based on the school district being on break the entire week during which the hearing is currently set, and the unavailability of three Antioch employees. The hearing is currently set to begin on October 9, 2018. Antioch asks that it begin on October 16, 2018. Although Antioch also asks that the prehearing conference in this matter be continued, no specific date is requested. The PHC is currently set for October 1, 2018. Antioch filed four declarations from Antioch employees to support its request for continuance.

On September 13, 2018, Student filed an opposition to the request, based on the unavailability of Mother from October 12 through October 16, 2018, and included with its opposition a declaration from Mother to that effect.

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**. While a school district break in and of itself is not good cause for a continuance, Antioch established that three important witnesses will be unavailable to testify on October 9, 10 and 11, 2018, the dates currently set for hearing, due to prepaid trips. Student established that Mother will be unavailable for hearing the week requested by Antioch. All presented facts were considered and the matter is now set as follows:

Prehearing Conference:	October 15, 2018, at 10:00 a.m.
Due Process Hearing:	October 23, 2018, at 9:30 AM, October 24-25, 2018, at 9 a.m. 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: September 13, 2018

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings