BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LOWELL JOINT SCHOOL DISTRICT,	OAH Case No. 2015100100
LOWELL JOINT SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015100387 ORDER GRANTING JOINT REQUEST FOR CONTINUANCE AND SETTING MEDIATION, PREHEARING CONFERENCE AND DUE PROCESS HEARING

On December 7, 2015, the parties filed a joint request to continue the mediation, prehearing conference and due process hearing to agreed dates. The requested dates for the due process hearing are more than 90 days from December 22, 2015, the date initially set for the hearing in the consolidated matters. The dates requested are supported by counsel's affidavit and based upon the parties' desire to participate in mediation; the availability of counsel, parties and witnesses; and take into account several national holidays and one week in January when OAH is not available for mediations, prehearing conferences or due process hearings.

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. This matter will be set as follows:

Mediation:	February 2, 2016, at 9:30 a.m.
Prehearing Conference:	March 25, 2016, at 10:00 a.m.
Due Process Hearing:	April 5, 6, and 7, 2016, 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.

The parties have filed prehearing conference statements, witness and exhibit lists. The parties may, but are not required to, amend these documents no later than three business days before the prehearing conference. Student's motions in limine filed November 9, 2015, will be addressed at the prehearing conference on March 25, 2015. Any other prehearing motions shall be filed no later than three business days before the prehearing conference.

IT IS SO ORDERED.

DATE: December 08, 2015

/S/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings