BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH Case No. 2019030607 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING DUE PROCESS HEARING

On June 13, 2019, Los Angeles Unified School District filed a Motion to Continue the due process hearing in this case, currently scheduled for June 25, 26, and 27, 2019. Los Angeles argued there is good cause to continue the hearing because its attorney and several witnesses are unavailable on the scheduled hearing dates. Los Angeles attached declarations to its motion indicating the unavailability of the attorney and witnesses. Los Angeles requests the hearing be continued until August 27, 28, and 29, 2019.

On June 17, 2019, Student filed an Opposition to Los Angeles's Motion to Continue. Student argued Student will be prejudiced by the delay in the hearing because his future educational placement is uncertain. Student argued Parent will be prejudiced by the delay due to the financial burden she will incur in having to pay Student's private school tuition for the 2019-2020 school year. Student did not indicate unavailability during Los Angeles's proposed hearing dates of August 27, 28, and 29, 2019.

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. There is good cause to continue the due process hearing in this case due to the unavailability of several witnesses on Student's and Los Angeles's witness lists. While Student opposed a continuance in the case due to prejudice, Student did not indicate unavailability during Los Angeles's proposed hearing dates. The hearing dates in this case will be set as follows:

Due Process Hearing:	**August 27, 28, and 29, 2019, at 9:30 AM, on the first day of hearing, and 9:00 AM on all following days, continuing day to day, as needed at the discretion of the Administrative Law Judge.**

The parties must immediately notify all potential witnesses of the hearing dates, and must 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: June 20, 2019

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings