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. 2016060728 ORDER CONTINUING DUE PROCESS HEARING

A due process hearing in this matter commenced on September 6, 2016, in Van Nuys, California. Student was represented by his mother. Student was present. Patrick Balucan, Attorney at Law, appeared on behalf of Los Angeles Unified School District. Spanish language interpreter Bernadette Buckley interpreted from English to Spanish and Spanish to English. On the second day of hearing, before Administrative Law Judge Marian H. Tully, Office of Administrative Hearings, based upon the evidence and for the reasons stated on the record, the hearing was continued to February 7 and 8, 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).)

In California, a person who is 18 years or older is an adult. (Fam. Code, § 6501.) When a student who has been receiving special education services reaches the age of 18, all educational rights are transferred to the student, and the district shall notify the student and the parent of the transfer of rights. (Ed. Code, § 56041.5.) If no guardian or conservator has

been appointed for the student, the student becomes a "parent" for purposes of special education law. (Ed. Code, § 56028, subd. (a)(2).)

Student is eligible for special education due to severe autism and is non-verbal. Student's eighteenth birthday is September 9, 2016. Student is unable to represent himself in this matter and there is no evidence he has the capacity to obtain representation. Mother has begun the process of obtaining letters of conservatorship. Under the law, on September 9, 2016, Mother would no longer hold Student's educational rights. The parties agree that it is in the interests of justice to continue the remainder of this due process hearing to the agreed dates of February 7 and 8, 2017, based upon the parties' estimate of the amount of time it will take to obtain the letters of conservatorship. Accordingly, the due process hearing is continued to February 7 and 8, 2017 and continuing day to day Monday through Thursday at the discretion of the ALJ. The hearing shall begin at 9:00 a.m. on the first day and at 9:00 a.m. all other days unless otherwise ordered.

IT IS SO ORDERED.

DATE: September 08, 2016

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Marian Tully
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MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings