BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015110163 ORDER FOLLOWING PREHEARING CONFERENCE; GRANTING REQUEST FOR CONTINUANCE; AND SETTING PREHEARING CONFERENCE AND HEARING DATES

On January 22, 2016, a telephonic prehearing conference was held before Administrative Law Judge Dena Coggins, Office of Administrative Hearings. Allison Hyatt, Attorney at Law, appeared on behalf of Student. Sarah Garcia, Attorney at Law, appeared on behalf of Sacramento City Unified School District. The PHC was recorded.

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

1. Request for Continuance. On June 19, 2016, Sacramento City filed a motion to continue the hearing dates in this matter because Sacramento City is scheduled to be in hearing on another case beginning on the same hearing date. In support of its motion, Sacramento City contends its representative, also listed as a witness in the District's PHC statement, is critical to Sacramento City's defense and case strategy. On June 21, 2016, Sacramento City filed a supplemental motion to continue based upon Sacramento City's counsel's unavailability due to a family medical emergency. Sacramento City requested the hearing be continued to the week of March 29, 2016. During the PHC, Sacramento City also requested a continuance of the PHC. Student did not file a response to the motion to continue prior to the PHC. During the PHC, Student's counsel and Parents were heard on their opposition to the motion.

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).) The Office of Administrative Hearings 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. Good cause exists to continue the PHC and hearing dates due to Sacramento City's counsel's family medical emergency; however, Sacramento City did not establish good cause for the requested length of continuance.

Sacramento City's motion is:

☒ Granted. The PHC is continued and all hearing dates are vacated. However, because this matter was already continued at Sacramento City's request in December 2015, Sacramento City's request for the hearing to be continued to the week of March 29, 2016, is denied. This matter will be set as follows:

Prehearing Conference:	February 12, 2016, at 1:00 p.m.
Due Process Hearing:	February 23, 2016, at 9:30 a.m., February 24, 2016 and February 25, 2016, at 9:00 a.m., 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.

IT IS SO ORDERED.

DATE: January 22, 2016

/S/

DENA COGGINS
Administrative Law Judge
Office of Administrative Hearings