BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017050854
v.	ORDER DISCHARGING ORDER TO SHOW CAUSE AND CONTINUING PREHEARING CONFERENCE AND HEARING
OAKLAND UNIFIED SCHOOL DISTRICT.	

On July 7, 2017, an order to show cause hearing was held to address Student's attorney's failure to appear for a prehearing conference on July 3, 2017. The order to show cause hearing was held with Student's attorney, Maggie Roberts, in attendance. Ms. Roberts explained that in addition to the information included in the declaration she filed on July 5, 2017, she discovered that the office of the answering service that answers her telephone was closed on July 3, 2017, which is why no one answered the telephone and forwarded the PHC call to her. She has taken steps to remedy that situation, including providing her personal cell phone number to be added to her profile with OAH so that number can be called in the event that her business telephone is not answered. Accordingly, the order to show cause is discharged.

Following the order to show cause hearing the PHC was convened with Ms. Roberts appearing on behalf of Student, and Lenore Silverman, Attorney at Law appearing on behalf of Oakland Unified School District. Oakland confirmed that the parties have a written settlement agreement that was approved by Oakland's Board of Education on June 28, 2017. However, it appears that the two board members who must sign the agreement on Oakland's behalf have failed to do so. Without a copy of that fully executed agreement, Student is reluctant to file a request for dismissal of this matter. The parties agreed that if the PHC was continued to July 14, 2017, and the hearing continued from July 11, 2017, to July 18, 2017, the settlement agreement would be fully executed, and Student would dismiss this matter.

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:

Prehearing Conference:	July 14, 2017, at 1:00 p.m.
Due Process Hearing:	July 18, 19, and 20, 2017, beginning at 9:30 a.m. on July 18, 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: July 7, 2017

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