BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CABRILLO UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015030583 ORDER PARITALLY GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND HEARING DATES

On June 9, 2015, Cabrillo Unified School District filed a request to continue the prehearing conference and hearing dates in this matter. Cabrillo requests a continuance citing the unavailability of its attorney, who will be out of the country from June 27, 2015 through July 11, 2015 and the unavailability of several witnesses due to out of town trips and vacations. The request to continue is accompanied by emails and a declaration under penalty of perjury. Cabrillo asks that the hearing be continued until August 18, 2015. Student filed an opposition to the request for continuance on June 9, 2015 and Cabrillo filed a reply to the opposition after business hours on June 10, 2015.

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. The request is:

☒ Partially Granted. All dates are vacated and the hearing and prehearing conference are scheduled as listed below. Cabrillo has shown good cause for a short continuance in the case due to the unavailability its attorney, but has not shown cause for a continuance until August 18, 2015. Based upon the declarations provided, witnesses will be available to testify as set below. Not all witnesses have to be available on every single day of the hearing. The hearing has been set such that all conflicts listed by Cabrillo are taken into consideration and witnesses will be able to be scheduled throughout the days of hearing.

Prehearing Conference:	June 26, 2015, at 10:00 a.m.
Due Process Hearing:	July 15, 2015, at 9:30 a.m., July 16, 21, 22, 23, and 28, 2015 at 9:00 a.m. and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: June 11, 2015

/s/

MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings