BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
GARVEY SCHOOL DISTRICT,	OAH Case No. 2016100171
v.	ORDER FOLLOWING PREHEARING CONFERENCE AND GRANTING DISTRICT'S MOTION FOR CONTINUANCE
PARENT ON BEHALF OF STUDENT.	

District filed a motion for continuance of the matter, supported by a declaration from District's counsel, on October 19, 2016. Student filed a response to the motion on October 24, 2016, arguing that OAH has no jurisdiction over this matter. Student did not provide any other substantive opposition to the motion.

The motion was heard during the telephonic prehearing conference held on October 24, 2016, before Administrative Law Judge Marc Levine, Office of Administrative Hearings. Sharon Watts, Attorney at Law, appeared on behalf of District. No one appeared on Student's behalf. The ALJ unsuccessfully attempted to call Parents on the mobile phone number on file with OAH. A message was left, requesting a return call so Parents could participate in the PHC, but Parents did not call back. The PHC was recorded.

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. (34 C.F.R. § 300.515(a) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. District's counsel established that her office attempted to meet and confer with Parents regarding new dates. Parents did not respond to District's attorney. District's counsel has a conflicting hearing before OAH scheduled to begin on the same day as this matter, and pre-planned travel at the end of November 2016. Good cause exists to grant a first continuance as requested by District because attorney for District is unavailable. The request is granted.

Accordingly, all dates are vacated and the hearing shall be set as follows:

Prehearing Conference:	January 9, 2017 at 10:00 AM
Due Process Hearing:	January 17, 2017 at 9:30 AM, January 18-19, 2017 at 9:00AM, and continuing day to day, Monday through Thursday as needed at the discretion of the ALJ.

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: October 24, 2016

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Marc Levine
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MARC LEVINE
Administrative Law Judge
Office of Administrative Hearings