BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017050795
v.	ORDER GRANTING CONTINUANCE OF PREHEARING CONFERENCE AND DUE PROCESS HEARING
ANTIOCH UNIFIED SCHOOL DISTRICT.	

On October 13, 2017, a telephonic prehearing conference was held before Administrative Law Judge Tiffany Gilmartin, Office of Administrative Hearings. Nicole Hodge Amey, Attorney at Law, appeared on behalf of Student. Amy Levine, Attorney at Law, appeared on behalf of Antioch Unified School District. The PHC was recorded.

At the outset of the PHC, Student's counsel notified OAH that she and District counsel have engaged in discussion of continuance dates due to counsel's illness. Student's counsel requested the hearing be continued to January 16-18, 2018. District did not object to a more than 90-day continuance. Student's counsel also offered that the requested additional time was due to an expected lengthy convalescent period. District counsel indicated there were dates in December that both parties had also discussed. Both parties said they are available to hold the Due Process hearing beginning on December 19, 2017. After the PHC concluded, the undersigned received a letter from Student's counsel advising of her illness and requesting January 2018 continuance dates.

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 for continuance is granted. Student counsel's request to continue to January 2018 is denied without prejudice. Student filed his complaint in May 2017. The request for January 16-18, 2018, was denied due to length of pendency of this hearing. Counsel for Student represented she is suffering from an unforeseen illness. OAH finds good cause in granting a continuance until December 19, 2017 to allow Student counsel to recover her health. Should Student's counsel's illness require a further continuance, she can submit a note from her treating physician outlining the limitations of her illness.

A party or participant to this case, such as a witness, requiring reasonable accommodation to participate in the mediation or hearing may contact the assigned calendar staff, identified in the scheduling order, at (916) 263-0880, as soon as the need is known. Additional information concerning requests for reasonable accommodation is available on OAH's website at https://www.dgs.ca.gov/oah/Home/Accessibility.aspx .

ORDER

1. The PHC is continued to December 11, 2017 at 1:00 p.m.

2. The Due Process hearing is continued to December 19, 20, 21, 2017. The hearing will begin at 9:30 on December 19, 2017. All other days, the hearing will begin at 9:00 a.m. If additional days are required, the hearing will continue day-to-day, at the discretion of the ALJ Monday through Thursday.

IT IS SO ORDERED.

DATE: October 13, 2017

DocuSigned by:
Tiffany Gilmartin
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TIFFANY GILMARTIN
Administrative Law Judge
Office of Administrative Hearings