BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARAMOUNT UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013070575 ORDER GRANTING STUDENT'S REQUEST FOR CONTINUANCE AND SETTING MEDIATION, PREHEARING CONFERENCE, AND HEARING DATES

On August 19, 2013, Parent and Student (collectively, Student) filed a second request to continue the mediation, prehearing conference (PHC), and due process hearing dates in this matter, based upon Parent's recovery from injuries sustained in an automobile accident on July 3, 2013. Student's first request for continuance, which was based upon the automobile accident and the need to obtain counsel, was unopposed by District and was granted, although the continuance was not as lengthy as that desired by Student. On August 23, 2013, the Paramount Unified School District filed an opposition to Student's second request for continuance, but also suggested dates for continuance should the request be granted. In particular, District opposed continuing the hearing to December 9-13, as suggested by Student, because District personnel who were necessary for hearing would not be available on those dates. As is further discussed below, the request for continuance is granted to the dates requested by District.

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. However, the August 9, 2013, letter from Dr. Molina which Student submitted in support of his request does not support the lengthy continuance Student requested. The letter does not specify Parent's "medical problems," it does not define a "strenuous activity," and it provides a broad and vague time window of "at least one to three months." The letter does not corroborate any of the symptoms or difficulties Parent describes in the request. Moreover, the due process hearing dates requested by Student are inconvenient to District, and Student did not meet and confer with District to agree on dates, as OAH requires. Under the circumstances, Student's second request for continuance does not demonstrate good cause to continue the dates for in excess of three months from the date of the letter, as Student requested, although Student's request supports a continuance to the dates suggested by District. Accordingly, this matter will be set as follows:

Mediation:	October 29, 2013, at 9:30 a.m.
Prehearing Conference:	November 4, 2013, at 1:00 p.m.
Due Process Hearing:	November 12-14, 2013, at 9:30 a.m., and November 18, 2013, at 1:30 p.m., and continuing day to day thereafter, Monday through Thursday as needed, at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: August 23, 2013

/s/

ELSA H. JONES
Acting Presiding Administrative Law Judge
Office of Administrative Hearings