BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. BURLINGAME ELEMENTARY SCHOOL DISTRICT.	OAH Case No. 2017050159 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND HEARING

On June 2, 2017, Student filed a request with the Office of Administrative Hearings to continue the Prehearing Conference and Hearing dates in this matter to July 2017. On June 7, 2017, Burlingame Elementary School District filed a response indicating they did not oppose the request to continue the case but asking that the hearing be held in September

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).)

Here, Burlingame Elementary's representative, and a person described as a key witness, will be unavailable to participate in a hearing on medical grounds until August 20, 2017. This constitutes good cause for the requested continuance. However, OAH also acknowledges the need to schedule the hearing to occur at the earliest opportunity to address Student's needs.

Based on the information provided by both sides, the request to continue the hearing is:

☒ Granted. The prehearing conference and hearing dates are vacated. This matter will be set as follows:

Prehearing Conference:	Monday, August 21, 2017 at 1:00 PM
Due Process Hearing:	Tuesday, August 29, at 9:30 AM, and Wednesday and Thursday, August 30 and 31, 2017 at 9:00 a.m., 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: June 12, 2017

/s/

PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings