BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
DUBLIN UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016080413
v.	ORDER GRANTING IN PART REQUEST FOR CONTINUANCE AND SETTING MEDIATION, PREHEARING CONFERENCE AND HEARING DATES
PARENT ON BEHALF OF STUDENT.	

On August 22, 2016, Student filed with the Office of Administrative Hearings a request to continue the dates in this matter based upon the unavailability of counsel, expert witnesses, and the Father. Student requests a hearing date in December to allow Father, who works in China, to arrange for a less expensive flight and be home with the family over the holidays. On August 25, 2016, Dublin Unified School District filed a non-opposition to a brief continuance. This is an initial request for continuance.

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 in part. All dates are vacated. Student has established good cause for a continuance based on the unavailability of her counsel and expert witnesses. However,

Student has not established good cause to continue this hearing to December. Student may request that Father appear and/or testify telephonically or by other electronic means. This matter will be set as follows:

Mediation:	October 4, 2016, at 9:30 a.m.
Prehearing Conference:	October 14, 2016, at 10:00 a.m.
Due Process Hearing:	October 25, 2016, at 9:30 a.m., October 26-27, 2016, at 9:00 a.m., and 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: August 26, 2016

DocuSigned by:
Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings