BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017121021
v.	ORDER FOLLOWING PREHEARING CONFERENCE; SETTING MEDIATION AND RESCHEDULING PREHEARING CONFERENCE; AND CONTINUING HEARING;
BALDWIN PARK UNIFIED SCHOOL DISTRICT.	

On June 25, 2018, a telephonic prehearing conference was held before Administrative Law Judge Sabrina Kong, Office of Administrative Hearings. Attorney Seshah Wolde-Tsadik appeared on Student's behalf. Attorney Gabrielle Ortiz appeared on Baldwin Park Unified School District's behalf. The PHC was recorded.

On June 20, 2018, the parties jointly requested a hearing continuance from July 30, 2018 to August 29, and 30, 2018; that mediation be set for July 17, 2018; and the PHC rescheduled to August 20, 2018 at 10:00 a.m. Student filed the due process complaint on December 27, 2017. The parties requested an opportunity to mediate the matter after Student filed an amended complaint on May 14, 2018.

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).)

ALJ noted that the case was initially filed in December 2017, and an amended complaint filed in May 2018, but found good cause for a brief continuance because the parties wished to mediate this matter. No further hearing continuances will be considered

without a showing of extraordinary circumstances because this matter would have been eight months old by the time of the August 2018 hearing. All dates are vacated, and this matter will be set as follows:

Mediation date: July 17, 2018 at 9:30 a.m.

Telephonic Prehearing Conference: August 20, 2018, at 10:00 a.m. All parties shall timely file PHC statements.

Due Process Hearing: August 29, and 30, 2018, continuing day to day, Monday through Thursday, at the discretion of the ALJ. The hearing shall begin at 9:30 a.m. on the first day of the hearing, and end at 5:00 p.m., and at 9:00 a.m. all other days, and end at 4:30 p.m., unless otherwise ordered.

The mediation and hearing shall take place at District's offices located at 3699 North Holly Ave., Baldwin Park, CA 91706.

District shall file its response to Student's amended complaint with OAH within two days of the date of this order. (*M.C. v. Antelope Valley Unified Sch. Dist.* (9th Cir. 2017) 858 F.3d 1189, 1199-1200.)

As ordered in the scheduling order, District shall provide a facility for the hearing that fully complies with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), the Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and all laws governing accessibility of government facilities to persons with disabilities. District shall certify that the facilities used for this matter comply with the law within two days of the date of this order, or inform OAH if it is unable to comply with this order.

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 25, 2018

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Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings