BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013070167 ORDER GRANTING REQUEST FOR RECONSIDERATION OF PARTIAL GRANT OF SECOND REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On September 19, 2013, the parties filed a second stipulated request to continue the dates in this matter. Student's due process hearing request (complaint) was filed on July 1, 2013, and based upon a stipulation between the parties, continued on August 2, 2013, to October 7, through October 10, 2013. The parties requested a second continuance based in part upon the admitted neglect of Student's counsel to calendar the matter so as not to conflict with another due process proceeding scheduled in a consolidated matter for the same dates. The schedule for the consolidated matter was set prior to the time the parties stipulated to the continuance in this matter. The parties are scheduled to mediate the matter on September 24, 2013. The parties request that the prehearing conference be continued to October 28, 2013, and the due process hearing to November 12, 2013.

On September 20, 2013, OAH granted in part, and denied in part, the parties joint second request, setting the prehearing conference on October 21, 2013, 1 p.m., and the due process hearing, October 28 through 30, 2013.

On September 26, 2013, Student requested that OAH reconsider the hearing dates, on the ground that the family will be out of the country for ten days from October 23, 2013, through November 4, 2013. Due to Student mentioned the family's scheduling conflict in her motion only, but did not attach a declaration attesting to the family's availability. Student's counsel did file a declaration confirming District's nonopposition to moving the hearing dates. District did not file an opposition to Student's motion.

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).)

At the time of the second continuance, OAH reviewed the request for good cause and considered all relevant facts and circumstances. Based upon the timing of the first continuance, Student's counsel knew for months that a scheduling conflict existed with this case and another matter but failed to bring it to OAH's attention earlier. Counsel's representation that there were other "OAH and hearing-related commitments" that prevented setting a hearing prior to November 12, 2013, was vague and unsubstantiated. For this reason, the request for a continuance was granted, but was denied for the dates requested.

Student's request to reconsider OAH's order clarifies that the requested dates were also based upon the family's travel commitments. Based upon the family's travel commitments, good cause exists for continuance of the dates to November 12, 13, and 14, 2013. Further continuances will be disfavored.

☒ Granted. All dates are vacated. The matter is set as follows.

Prehearing Conference:	October 28, 2013, 1:00 p.m.
Due Process Hearing:	November 12, 13, and 14, 2013, 9:30 a.m, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: October 4, 2013

/s/

EILEEN COHN
Administrative Law Judge
Office of Administrative Hearings