BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of:<br><br>PARENT ON BEHALF OF STUDENT,<br><br>v.<br><br>TORRANCE UNIFIED SCHOOL DISTRICT. | OAH Case No. 2016120826<br><br>ORDER DENYING REQUEST FOR CONTINUANCE |

On January 20, 2017, Torrance Unified School District filed a request, and the parties filed a joint first request, to continue the prehearing conference and the due process hearing in this matter with the Office of Administrative Hearings. The date set for hearing is February 8, 2017. The parties request a continuance to June 6, 7 and 8, 2017, on the grounds that the only attorney in counsel's firm authorized to represent District will be out of town from April 7 through May 1, 2017, and from May 11, 2017 until June 2, 2017, and has a very busy trial calendar on all other days.

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 dates requested by the parties result in a hearing 120 days from the initial hearing date. OAH typically grants a joint first request to continue hearing dates for 90 days. Counsel's declaration in this case does not establish good cause for a continuance of more than ninety days. The possibility that counsel might be engaged in another hearing in

another case sometime in the future does not constitute unavailability under the rules. Accordingly, the request for continuance is denied. The parties may file a second request for continuance to agreed dates with 90 days of the initial date set. All dates are confirmed.

IT IS SO ORDERED.

DATE: January 23, 2017

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Marian H. Tully
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MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings