BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015110824
v.	ORDER GRANTING DISTRICT'S MOTION TO CONTINUE PREHEARING CONFERENCE AND HEARING DATES
SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT.	

On November 18, 2015, Student filed a due process complaint against District. On December 18, 2015, District filed a request to continue the prehearing conference and hearing dates with OAH because District's personnel/witnesses are unavailable from December 19, 2015 to January 10, 2016 for a hearing set to begin on January 7, 2016. Student did not stipulate to a joint request for continuance when requested by District, but Student did not file an opposition to District'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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. Because this is a first request for a hearing continuance, OAH is not available for hearings the week of January 11, 2016 as indicated on the website calendar, and Student did not oppose District's motion, the continuance is:

☒ Granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference:	February 22, 2016 at 10:00 a.m.
Due Process Hearing:	February 29, 2016 at 1:30 p.m., March 1, 2, and 3, 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: December 28, 2015

/S/

SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings