BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017040667
v.	ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND HEARING DATES
IRVINE UNIFIED SCHOOL DISTRICT.	

On November 18, 2017, the parties filed a joint request to continue the dates in this matter with the Office of Administrative Hearings, based upon Student's counsel unavailability for hearing as she is also scheduled to be in hearing in OAH Case No. 2017051374.

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. All dates are vacated. Student filed this complaint on April 12, 2017. On May 23, 2017, OAH granted the parties' initial continuance request and set this matter for hearing for September 6 and 7, 2017. On August 28, 2017, OAH granted Student's motion to amend the complaint, and concurrently served a scheduling order that set the matter for hearing for October 25, 2017. However, on June 25, 2017, in OAH Case No. 2017051374, in which Student's attorney represents the student in that matter, OAH

continued that matter for hearing for October 24 – 26, 2017. Therefore, while the parties in this matter should have requested a continuance sooner as the hearing conflict was known on August 28, 2017, the continuance will be granted since it is less than 30 days in length and will be set as follows:

Prehearing Conference:	November 3, 2017, at 1:00 PM
Due Process Hearing:	November 14, 2017, at 9:30 AM, November 15 and 16, 2017, 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. Matter is assigned to Administrative Law Judge Elsa Jones.

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: October 20, 2017

DocuSigned by:

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings