BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: LOS ANGELES UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016050233 ORDER FOLLOWING PREHEARING CONFERENCE GRANTING CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

On May 23, 2016, a telephonic prehearing conference was held before Administrative Law Judge Marc Levine, Office of Administrative Hearings. Parent appeared on behalf of Student. Mary Kellogg, Attorney at Law, appeared on behalf of Los Angeles Unified School District. The PHC was recorded. The parties jointly requested a first continuance and new dates for the PHC and Due Process Hearing.

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 parties failed to mediate the matter when the mediation was inadvertently cancelled, rather than continued. The parties requested the continuance to allow them an opportunity to mediate. The parties will submit a joint request for mediation, with agreed upon dates, once they have met and conferred.

The request is:

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

Prehearing Conference:	July 15, 2016 at 10:00 AM
Due Process Hearing:	July 26, 2016 at 9:30 AM, July 27, 2016, at 9:00 AM, 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: May 23, 2016

DocuSigned by:
Marc Levine
61DCEBB6FB8549C...

MARC LEVINE
Administrative Law Judge
Office of Administrative Hearings