BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. EAST SIDE UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2019030332 ORDER FOLLOWING PREHEARING CONFERENCE; DENYING REQUEST FOR STAY; GRANTING REQUEST TO MEDIATE AND REQUEST FOR CONTINUANCE; AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

On April 22, 2019, a telephonic prehearing conference was held before Administrative Law Judge Tiffany Gilmartin, Office of Administrative Hearings. Nicole Hodge Amey, Attorney at Law, appeared on behalf of Student. Eliza McArthur, Attorney at Law, appeared on behalf of East Side Union High School District. The PHC was recorded.

1. East Side's Request for Stay or for Continuance. On April 17, 2019 East Side filed a motion to stay proceedings or in the alternative a continuance on the basis that many of the issues in dispute are subject to a pending OAH decision in District's case number 2019010414. No response was filed by Student. During the PHC, both parties were heard as to this request. Student did not object to EastSide's motion. EastSide, however, did not provide legal authority that would require OAH to grant a stay of these proceedings. Accordingly, the request for stay was denied.

During the PHC, the parties requested an opportunity to mediate this matter prior to pursing due process litigation. This is the first request for continuance in this matter.

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).)

The parties just recently agreed to participate in mediation, and therefore good cause is found as to why this request was not brought three business days prior to the PHC. The parties' request for mediation constitutes good cause to continue this matter.

Meditation:	June 7, 2019 at 9:30 a.m. at East Side Union High School District, 830 North Capitol Avenue, San Jose, CA 95133
PHC:	July 26, 2019 at 1:00 p.m.
DPH:	August 6-8, 2019. The first day will begin at 9:30 a.m., and all other days will begin at 9:00. Once convened the due process hearing will proceed day-to-day at the discretion of the administrative law judge.

IT IS SO ORDERED.

DATE: April 22, 2019

DocuSigned by:
Tiffany Gilmartin
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TIFFANY GILMARTIN
Administrative Law Judge
Office of Administrative Hearings