BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. COMPTON UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015110718 ORDER GRANTING IN PART AND DENYING IN PART REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND HEARING DATES

On December 18, 2015, Compton Unified School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon the unavailability of its legal counsel due to a previously set Federal court appearance. On December 21, 2015, Student opposed the request based upon Student's request for OAH to issue a decision in this matter as soon as possible.

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 in Part and Denied in Part. District established good cause to continue the prehearing conference to give it more time to prepare due to the holiday break. However, District did not establish good cause for a brief continuance due to a preexisting

Federal court appearance as that appearance is in the morning, and the hearing can therefore commence in the afternoon. As to witness unavailability, District did not establish good cause because it did present any evidence as to witness unavailability by way of declaration. Therefore, this matter will be set as follows:

Prehearing Conference:	January 4, 2016, at 10:00 AM
Due Process Hearing:	January 7, 2016, at 1:30 PM, January 19, 2016, at 1:30 PM, January 20 and 21, 2016, at 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 Caroline Zuk.

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 21, 2015

/S/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings