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. 2018070083 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On July 2, 2018, Los Angeles Unified School District filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Student. On July 12, 2018, OAH granted the parties' joint request to continue the due process hearing, and scheduled a prehearing conference for October 12, 2018, and a due process hearing for October 22 and 23, 2018. On October 12, 2018, OAH held a prehearing conference. No one appeared on behalf of Student despite several attempts by OAH to contact Parent.

On October 22, 2018, OAH commenced the due process hearing. Mary Kellogg, Attorney at Law, appeared on behalf of Los Angeles. Parent appeared on behalf Student. At the hearing, Parent requested a continuance of the due process hearing in order to obtain legal representation. Los Angeles opposed Parent's request on the grounds that the request was untimely and should have been made at the prehearing conference.

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, as set forth in the record, and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. The parties agreed to new dates. This matter will be set as follows:

Prehearing Conference:	**December 7, 2018, at 10 AM**
Due Process Hearing:	**December 12 and 13, 2018, at 9:30 AM on the first day of hearing and 9:00 AM on all following days, continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.**

The prehearing conference is telephonic. OAH will call the parties. The parties shall file prehearing conference statements at least three business days before the prehearing conference. The due process hearing will take place at OAH, 15350 Sherman Way, Suite 300, Van Nuys, CA 91406.

In preparation for the prehearing conference and due process hearing, OAH strongly encourages Parent to review the *Mediation and Due Process Hearing Information Packet* that was attached to the Scheduling Order OAH mailed to Parent on July 3, 2018. Parent may request another information packet from OAH by calling (916) 263-0592. Parent may also obtain information about special education due process hearings on OAH's website: www.dgs.ca.gov/oah/specialeducation.

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 22, 2018

DocuSigned by:
Tara Doss
0D223C0D8032412...

TARA DOSS
Administrative Law Judge
Office of Administrative Hearings