BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. ANAHEIM CITY SCHOOL DISTRICT,	OAH Case No. 2016090258
ANAHEIM CITY SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016050770 ORDER REASSIGNING MATTER, GRANTING CONTINUANCE AND SETTING DECISION DUE DATE

On January 18, 2016, a status conference was held in this matter, before the undersigned. Phillip W. Van Allsburg, attorney at law, appeared on behalf of Student; Laurie A. Arrowsmith, attorney at law, appeared on behalf of the Anaheim City School District. The purpose of the status conference was to discuss the unavailability of the Administrative Law Judge assigned to hear this matter and render a written decision.

APPLICABLE LAW AND DISCUSSION

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).) The Office of Administrative Hearings 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).)

Administrative Law Judge Marc Levine conducted the hearing in this matter on October 27 and November 1, 2016. The matter was submitted for decision following the filing of written closing briefs. Subsequently, ALJ Levine became unavailable. The timeline for issuance of a written decision was extended with the expectation that ALJ Levine would return and complete the decision.

As of January 18, 2016, OAH could not provide the parties with a date of ALJ Levine's return. OAH offered to have another ALJ reconvene the hearing anew; or, to have another ALJ review the record, examine the exhibits and closing briefs, and issue a written decision. The parties requested the matter be reassigned for review and issuance of a written decision.

The parties' request was granted and the matter is reassigned to ALJ Adrienne L. Krikorian. In order for ALJ Krikorian to have reasonable time to conduct her review and issue a decision, the parties agreed to extend the 45-day decision timeline to February 28, 2017.

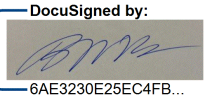
ORDER

1. The matter is reassigned to ALJ Adrienne L. Krikorian for review and issuance of a written decision.

2. The 45-day time line for issuance of a written decision is continued to February 28, 2017.

3. Each party is granted a peremptory challenge, should they choose to exercise it. Any peremptory challenge shall be filed no later than the close of business on January 24, 2017.

DATE: January 20, 2017

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BOB N. VARMA
Division Presiding Administrative Law Judge
Office of Administrative Hearings