BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TEMECULA VALLEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016060613 ORDER GRANTING REQUEST FOR CONTINUANCE AND DENYING REQUEST FOR A TRIAL SETTING CONFERENCE

On November 10, 2016, the parties filed a joint request to continue the November 29 and 30, 2016 hearing dates for phase two of the bifurcated hearing on the grounds that: (1) Student has just retained counsel for phase two of the bifurcated hearing, and (2) the parties need adequate time to prepare for phase two of the hearing after an order on phase one has been issued. The parties request that the current hearing dates of November 29 and 30, 2016 be vacated and that a trial setting conference be scheduled after an order on phase one of the hearing has been issued.

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).)

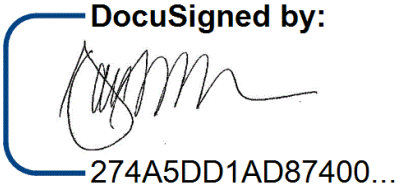
OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The parties request for a continuance is granted, however, OAH does not grant open ended continuances, and the parties did not specify new dates for phase two of the hearing. Accordingly, OAH has selected the dates. Phase Two of the bifurcated hearing is continued to December 20, 21 and 22, 2016, and will continue day to day, Monday through Thursday, as needed at the discretion of the ALJ. The hearing shall begin each day at 9:00 a.m. with the

exception of December 20, 2016, on which day the hearing shall begin at 9:30 a.m., unless otherwise ordered. The hearing shall take place at 31350 Rancho Vista Road, Temecula, California 92592. There shall be no further continuances of this matter absent a showing of good cause supported by a declaration under penalty of perjury. The request for a trial setting conference is denied.

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: November 14, 2016

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LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings