BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CARLSBAD UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016110599 ORDER GRANTING IN PART REQUEST FOR CONTINUANCE AND SETTING STATUS CONFERENCE

A hearing on this matter was held on February 22 and 23, 2017. A final day of hearing was set for March 8, 2017. On March 7, 2017, the Carlsbad Unified School District filed a request to continue the final day of hearing on the grounds that its counsel has become ill and is unavailable. On March 7, 2017, Parents, on behalf of Student, filed an opposition setting out various reasons why the matter should not be continued or proposing alternative resolutions to this matter. All arguments were considered by the undersigned.

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).)

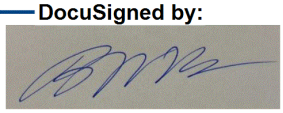
OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted in part. The hearing date of March 8, 2017, is vacated. Carlsbad established good cause to continue the hearing. Parents' contentions aside, Carlsbad has been represented by the same counsel through this hearing and would be denied due process if it was required to find other representation or appear without representation with less than 24 hours' notice, when the unavailability of counsel was unforeseen. However, Carlsbad's request to continue the final day of hearing to March 20, 2017, is unreasonable. This hearing is already in process and takes precedence over other matters. Therefore, a status conference is being set below. The parties shall appear telephonically at the status conference before ALJ Kong. The purpose of the conference is to obtain an accurate update on counsel's health and to set the next available hearing date based upon that update. If either party believes they are not available for one day of hearing during the week of March 13, 2017, they should be prepared to establish good cause for that unavailability.

Status Conference: March 10, 2017, at 11:30 AM

IT IS SO ORDERED.

DATE: March 7, 2017

DocuSigned by:

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