BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

NORRIS SCHOOL DISTRICT.

OAH CASE NUMBER 2020010423

ORDER DENYING REQUEST FOR CONTINUANCE

JUNE 01, 2020

On June 1, 2020, the parties filed a joint request to continue this matter with the Office of Administrative Hearings, referred to as OAH, based upon unavailability of witnesses and counsel for the parties.

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

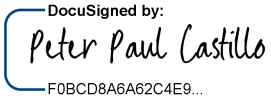
significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances 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 or imposing conditions on the continuance; and any other relevant fact or circumstance. (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:

Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. The continuance request is denied as denied. OAH granted the parties' first continuance request on February 20, 2020, so the parties could participate in mediation, which the parties did on March 12, 2020. On April 7, 2020, OAH continued the hearing dates due to COVID-19, and then on May 7, 2020, OAH granted Student's motion to amend that reset the hearing dates. The parties' continuance request contains no declaration as to witness unavailability as Summer Break by itself does not make a witness unavailable, especially as witnesses can be subpoenaed and testify by

videoconference. Further, the Individuals with Disabilities Act creates no right to a continuance for Summer Break. Accordingly, the parties' joint continuance request is denied.

IT IS SO ORDERED.



Peter Paul Castillo

Presiding Administrative Law Judge

Office of Administrative Hearings