BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

OXNARD UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2019050500

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING DUE PROCESS HEARING

On May 10, 2019, Student filed a request for due process hearing with the Office of Administrative Hearings, naming Oxnard Union High School District. On June 24, 2019, OAH continued the due process hearing to August 20 through 22, 2019. On August 19, 2019, Oxnard filed a request to continue the due process hearing to dates after mid-September, 2019, due to a medical emergency requiring Oxnard's trial counsel to not engage in work activities until that time. Student's counsel does not oppose a continuance of up to two weeks, but objected that a longer continuance would conflict with Student's and Parents' timeline.

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. Oxnard's request for a continuance is:

Granted. All dates are vacated. This matter will be set as follows:

Due Process Hearing will be held on September 17-19, 2019. The hearing shall begin at 9:30 AM the first day, and at 9:00 AM on all other days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or

subpoena a witness. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with evidence of good cause why it was not possible to file the motion by that date.

IT IS SO ORDERED.

DATED: August 19, 2019

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Robert G. Martin
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Administrative Law Judge
Office of Administrative Hearings