BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013080189 ORDER DENYING REQUEST FOR CONTINUANCE

On September 23, 2013, a day before the hearing in this matter is scheduled to start, Parent on behalf of Student, filed with the Office of Administrative Hearings (OAH) a request to continue the hearing, in order to have time to file an amended pleading in OAH Case No. 2013090062, a case involving Student versus the San Dieguito Union High School District. On the same day, counsel for the District filed with OAH an opposition to the request for continuance.

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. Here, the request to continue the hearing dates in this case, based upon the desire by Student to file an amended pleading in another case, does not constitute good cause for a continuance, since Student has the right to file an amended pleading in his administrative matter at any time, and the issues raised in the amended pleading may or may not align with the issues set forth in the District's case. Moreover, the continuance request

comes a day before the hearing starts in the District matter, and, under special education law, the District is entitled to a speedy resolution of its case. Accordingly, Student's request for a continuance is denied.

IT IS SO ORDERED.

Dated: September 23, 2013

/s/
TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings