BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ALTA LOMA SCHOOL DISTRICT.	OAH Case No. 2017120979 ORDER DENYING STUDENT'S REQUEST FOR CONTINUANCE

On April 30, 2018, Student filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon a possible hearing conflict with OAH Case Nos. 2017080645 and 2017090290 and need of Student's counsel, Tanya Whiteleather, to be deposed in a civil litigation matter in which she is a plaintiff. On May 1, 2018, Alta Loma School District opposed the request based upon prior assurances from Student's counsel that the hearing would commence and be completed on May 2, 2018.

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 request is:

☒ Denied. All hearing dates are confirmed and shall proceed as calendared. Student filed this matter on December 26, 2017, and OAH consolidated Student's

case with District's case on December 29, 2017.[1] On February 12, 2018, OAH granted Student's continuance request and set the matter for hearing to commence on April 3, 2018. On April 2, 2018, Student filed a second continuance request as Student's counsel was in hearing in OAH Case No. 2017080513, which District did not oppose. On April 2, 2018, OAH granted the continuance request for the hearing to start on April 10, 2018, as neither Student nor District proposed continued hearing dates. After OAH issued its second continuance order, the parties submitted a joint continuance request, which OAH granted on April 2, 2018, for the hearing to commence on May 2, 2018. As to OAH Case Nos. 2017080645 and 2017090290, that matter is not proceeding to hearing as both parties withdrew their respective hearing requests on May 1, 2018. As to Ms. Whiteleather's need to be deposed in a civil litigation matter, there is not a court order mandating the completion of discovery by a certain date. Further, the deposition notice was issued on April 24, 2018, after OAH granted the third continuance. Accordingly, Student did not establish good cause for a continuance. Therefore, Student's continuance request is denied and the matter shall proceed to hearing as scheduled.

IT IS SO ORDERED.

DATE: May 1, 2018

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings

[1] District withdrew its case without prejudice on April 25, 2018.