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 No. 2017020382 ORDER DENYING REQUEST FOR CONTINUANCE WITHOUT PREJUDICE

On May 1, 2017, the parties filed a joint second request to continue the dates in this matter with the Office of Administrative Hearings, based upon availability of legal counsel for Student. OAH granted the parties' previous continuance request on March 23, 3017, and set the hearing to begin on May 9, 2017.

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 prehearing conference and hearing dates are confirmed and shall proceed as calendared. The continuance request discusses a conflict with an appearance in Federal District Court and a scheduled mediation with OAH. However, the continuance request does not include a declaration from Student's attorney as to when the District Court noticed the hearing and the scheduling of the mediation.

Good cause for a continuance would exist if the District Court matter was scheduled after March 22, 2017. As to the OAH mediation, the continuance request does not provide the case number for that matter. Accordingly, the parties' continuance request is denied without prejudice as OAH would be inclined to grant the short continuance requested if the request included a declaration with the information discussed above.

IT IS SO ORDERED.

DATE: May 2, 2017

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