BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
DEL MAR UNION SCHOOL DISTRICT,	OAH Case No. 2015010798
v.	ORDER DENYING REQUEST TO RESCHEDULE START DATE FOR DUE PROCESS HEARING
PARENT ON BEHALF OF STUDENT	

On April 24, 2015, the Office of Administrative Hearings granted Parent's motion for a second continuance, setting the hearing for May 19 to 21, 2015. District did not oppose the motion.

On May 12, 2015, District filed a motion to reschedule the start date for the due process hearing, based upon a calendar conflict for one of the District's attorneys of record, Sundee Johnson. Specifically, Ms. Johnson will be out of town on May 21, 2015, because of a previously planned trip that was booked in March 2015. Ms. Johnson did not notice the scheduling conflict until May 7, 2015, and attempted to meet and confer with Parent but Parent did not respond to her communications.

Student did not file a response to District's motion to reschedule the start date.

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. District had an opportunity to confirm calendar conflicts and oppose Student's motion for a second continuance, and did not available itself of that opportunity. District has two attorneys of record for this case, and the firm representing it has other attorneys that can represent District.

IT IS SO ORDERED.

DATE: May 15, 2015

/s/

CAROLINE A. ZUK
Administrative Law Judge
Office of Administrative Hearings