BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019070571

ORDER DENYING REQUEST FOR CONTINUANCE

On September 23, 2019, Administrative Law Judge Rommel P. Cruz, Office of Administrative Hearings held a telephonic prehearing conference. The Office of Administrative Hearings will be referred to as OAH. At the Prehearing Conference, ALJ Cruz granted the parties' continuance request due to the unavailability of Student's guardian, setting the hearing to begin on January 28, 2020.

On December 26, 2019, Legal Guardian on behalf of Student filed a request to continue this matter based on a compliance compliant filed with the California Department of Education on December 20, 2019, until the completion of the compliance complaint investigation and the independent educational evaluations. In addition, Student sought a continuance based on the Guardian's unavailability due to the Guardian's health concerns related to an automobile accident that occurred in September 2019. No declaration or medical documentation was provided by Student to

support the continuance request. OAH denied the continuance request on January 3, 2020.

At the January 17, 2020 Prehearing Conference, ALJ Cruz confirmed the hearing dates of January 28, 29 and 30, 2020, and stated that additional "hearing dates will be discussed with the ALJ on the first day of hearing."

On January 23, 2020, Long Beach Unified School District filed with OAH a request to continue this matter, based upon the unavailability of Long Beach School Psychologist Kristen Bogdan, who is a witness for both parties, as Ms. Bogdan will be in a civil trial scheduled to begin on January 23, 2020, that is scheduled to last two weeks. On January 24, 2020, Student filed a non-opposition. Neither party provided dates for when the hearing should be continued.

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. The request is:

Denied. All hearing dates are confirmed and shall proceed as calendared. The continuance request is denied as nothing in the documents provided by the parties establish that Ms. Bogdan's testimony will be needed for the first week of hearing. The parties, as stated in the Prehearing Conference Order, can discuss at the beginning of hearing, or during any of the first three days of hearings, when to schedule additional hearing dates if the hearing will take more than three days to finish. Parties are advised that for scheduling additional hearing dates that this matter will take precedence over other scheduled hearings that have not commenced and mediations.

IT IS SO ORDERED.

DocuSigned by:
Peter Paul Castillo
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DATED: January 24, 2020

Peter Paul Castillo
Presiding Administrative Law Judge
Office of Administrative Hearings