BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: COVINA-VALLEY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018030952 ORDER DENYING STUDENT'S MAY 3, 2018 REQUEST FOR CONTINUANCE

At the April 13, 2018 prehearing conference, the Office of Administrative Hearings continued this case to May 9 and 10, 2018. While Parent did not participate in the prehearing conference, the dates chosen were from Student's April 3, 2018 continuance request as Student requested a continuance from the initial hearing date of April 30, 2018, for medical procedures.

On May 1, 2018, Parent on behalf of Student filed a request to continue the present hearing dates in this matter with OAH, based upon further medical procedures, Parent's work schedule and migraines caused by the stress of the hearing process upon Parent. On May 2, 2018, Covina-Valley Unified School District opposed the request based upon the lateness of the request and that the dates chosen for hearing were from Student's prior continuance request. OAH denied this continuance request on May 2, 2018.

On May 3, 2018, Student filed another request to continue the dates in this matter with the Office of Administrative Hearings, based upon purported medical procedures and that case will be moot as Parent and Student are moving out of the District. It does not appear that Parent on behalf of Student served a copy of the May 2, 2018 continuance request and declaration of Michele Montoya on District, which OAH has continually informed Parent that Parent needs to do. (A courtesy copy of these documents is provided to District by OAH.)

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. Student did not establish good cause for a second continuance and Parent is cautioned that Parent's tactic of trying to overwhelm OAH with continuance requests with the hope that OAH will eventually grant the continuance request may subject Parent to monetary sanctions. Accordingly, Student's continuance request is denied and the matter shall proceed as scheduled.

IT IS SO ORDERED.

DATE: May 03, 2018

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