BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ROCKLIN UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019101186

ORDER DENYING REQUEST TO VACATE JANUARY 17, 2020 HEARING DATE

On January 8, 2020, Student filed with the Office of Administrative Hearings, known as OAH, a request to vacate the January 17, 2020 hearing date in this matter due to Parent unavailability over work commitments. Rocklin did not file a response to Student's request.

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.

On December 17, 2019, Student filed a request to continue this matter that was set for January 2, 2020, due to Parent and Rocklin unavailability, and requested that the matter be continued to the next available hearing dates.

On December 23, 2019, the undersigned administrative law judge granted Student's request and set this matter for the next available prehearing conference date of January 6, 2020, and continued the due process hearing to the following week on January 14, 15, and 16, 2020. The December 23, 2019 Order specifically stated that the hearing would "continue day to day, as needed at the discretion of the Administrative Law Judge." Thus, Student was on notice as of December 23, 2019, that this case would proceed day to day if additional days were needed to complete this matter.

Student's counsel filed a prehearing conference on December 18, 2019, and estimated that the hearing would last up to six days. Thus, Student believed that additional hearing days would be needed for this hearing.

On January 6, 2020, at the prehearing conference, the undersigned reiterated to the parties what had already been published in the prior Order granting continuance, that the hearing would continue day and day, and clarified that it did not include State holidays.

On January 8, 2020, Student filed a motion to vacate the January 17, 2020, hearing date due to Parent unavailability over work related commitments, and stating that she was unaware until the prehearing conference that the hearing would be set on January 17, 2020. Student, however, failed to establish good cause to vacate the January 17, 2020 hearing date as stated below.

The December 23, 2019 order clearly sets forth that the hearing will continue day to day, thus the parties were aware that the hearing would continue day to day. Thus, Student did not establish good cause as to why the motion was untimely filed after the January 6, 2020 prehearing conference. Further, work commitments are not good cause to continue a hearing. Accordingly, the request to vacate the January 17, 2020 hearing date is denied.

IT IS SO ORDERED.

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Cynthia Fritz
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DATED: January 13, 2020

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings