BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANTIOCH UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018050914 ORDER DENYING REQUEST FOR CONTINUANCE

On September 6, 2018, Antioch Unified School District filed a request to continue the dates in this matter. No opposition was received from Student. This is the second request for continuance in this matter. The filing of an amended complaint resets dates but does not commence a new matter; thus the assertion by Antioch that this is the first request for continuance is erroneous.

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. (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; 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).)

The parties have submitted no evidence of good cause for this continuance. An unauthenticated copy of a cryptic email indicates that Student's counsel may have conflicts with the start day of the hearing. However, this date was proposed jointly by counsel at the time of the July 9, 2018 Prehearing Conference when Student requested the last continuance. No evidence has been provided as to when these conflicts arose, or of the venues or case numbers involved. Questions remain as to how Student's counsel can have two matters set to begin the week this hearing is scheduled. The email does not support any conflict on the part of Antioch's counsel.

Every continuance delays the resolution of a child's education program. OAH has reviewed the request for a continuance and considered all relevant facts and

circumstances. Good cause was not established; therefore, the request is DENIED. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

DATE: September 13, 2018

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Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings