BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT AND

HARBOR REGIONAL CENTER.

OAH CASE NUMBER 2019070571

ORDER DENYING REQUEST FOR CONTINUANCE AND DISMISSAL OF HARBOR REGIONAL CENTER AS A PARTY

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 by Student for alleged violations on the part of Long Beach Unified related to independent educational evaluations requested by Guardian in June 2019. Student seeks to continue the due process hearing to a time following the completion of the compliance complaint investigation and the independent educational evaluations. In addition, Student seeks a continuance of the due process hearing 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.

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).)

Student has failed to establish good cause to grant an extension in this matter. A continuance based on completion of a pending compliance complaint with the California Department of Education does not constitute good cause. In addition, the completion of independent educational evaluations does not establish good cause as this hearing has been pending since July 2019 and Student provided no explanation as to why alleged violations related to independent educational evaluations were not previously raised. Student's claims related to independent educational evaluations may be pursued through a separate due process hearing request. Furthermore, Student

failed to provide documentation establishing that Guardian is unable to attend the hearing as scheduled for health reasons. Accordingly, Student's request of a continuance is denied. Student may renew her request for a continuance if supported by documentation that Guardian is unable to attend the hearing for health reasons. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

Harbor Regional Center was named in Student's original complaint, along with the California Department of Developmental Services. On September 16, 2019, Student dismissed the California Department of Developmental Services as a party, and then ceased serving documents on Harbor Regional Center. OAH is treating Student's dismissal of the California Department of Developmental Services, subsequent non-service of documents on Harbor Regional Center, and failure to raise Harbor Regional Center as a party at the September 23, 2019 prehearing conference as a dismissal of Harbor Regional Center as a party.

IT IS SO ORDERED.

DATED: January 3, 2020

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Rommel P. Cruz
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Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings