BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAUGUS UNION SCHOOL DISTRICT.	OAH Case No. 2016060676 ORDER DENYING DISTRICT'S REQUEST FOR CONTINUANCE

On August 1, 2016, Saugus Unified School District filed a first request to continue the dates in this matter with the Office of Administrative Hearings for approximately 30 days, based upon one of the attorneys in the firm representing District having a very busy trial calendar for the next couple of months.

On August 4, 2016, Student opposed the request, based upon Student's right to a have the matter heard within a reasonable time, and District's law firm having other attorneys available for mediation and hearing as scheduled.

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 mediation, prehearing conference and hearing dates are confirmed and shall proceed as calendared.

District has not established good cause for a continuance of the hearing. The declaration of one attorney from the firm representing District regarding her schedule does not demonstrate that all attorneys in that firm, let alone District's preferred attorney, are unavailable due to death, illness or other excusable circumstances. District's preference for an unavailable attorney over an available attorney is not an excusable circumstance for purposes of establishing good cause for a continuance. Similarly, a continuance because counsel is assigned to handle another hearing, which may not go forward and may be reassigned to another attorney, is premature.

Mediation is voluntary. If Parent is unwilling to reschedule for purposes of meeting with District's preferred representatives to discuss resolution short of hearing, District may designate other representatives or contact OAH to cancel mediation.

IT IS SO ORDERED.

DATE: August 4, 2016

DocuSigned by:
Alexa Hohensee
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ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings