BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. FREMONT UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2018090670 ORDER DENYING REQUEST FOR CONTINUANCE

On November 2, 2018, Fremont Union High School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon counsel for Fremont's delayed appearance in the matter as counsel of record. In counsel's declaration, counsel stated Fremont was self-represented in the matter until November 2, 2018 when it was apparent the matter would likely proceed to due process hearing. When Fremont contacted counsel, counsel promptly agreed to representation with full knowledge of the pending due process hearing and an additional conflict of a separate due process matter in another district. Counsel stated due to these conflicts, she would be unable to prepare for hearing within the next seven days. Parent filed an opposition to Fremont's motion on November 2, 2018.

The prehearing conference was initially scheduled for Friday, November 2, 2018. When the PHC was called, Fremont participated but Parent did not attend. Before issuing an order to show cause why the matter should not be dismissed for Parent's failure to appear, Fremont was given an opportunity to orally argue its motion to continue Fremont did not provide any additional facts to support good cause.

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 as Fremont failed to demonstrate good cause exists for granting a continuance. Accordingly, Fremont's motion is DENIED.[1]

IT IS SO ORDERED.

DATE: November 5, 2018

DocuSigned by:
Tiffany Gilmartin
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TIFFANY GILMARTIN
Administrative Law Judge
Office of Administrative Hearings

[1] On November 5, 2018, an Order regarding Order to Show Cause was issued. As a result of this order, the hearing dates were continued and the newly scheduled dates can be located there.