BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT AND RESEDA CHARTER HIGH SCHOOL.	OAH Case No. 2019030607 ORDER DENYING STUDENT'S REQUEST FOR CONTINUANCE

On April 3, 2019, the Office of Administrative Hearings granted the parties' joint continuance request, and set this matter for a prehearing conference for May 20, 2019, at 10:00 a.m., and hearing to commence on May 29, 2019. On May 12, 2019, Student filed with OAH a request to continue the dates in this matter, based upon a pending Motion for Summary Judgement in United States District Court as to prior litigation between the parties, scheduled for June 7, 2019. On May 14, 2019, Los Angeles Unified School District opposed the request based upon the contention that the parties entered into a settlement agreement on May 9, 2019, that resolved this matter, and in the alternative Student failed to establish good cause as the District Court action and this matter are not related matters.

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 prehearing conference and hearing dates are confirmed and shall proceed as calendared. Regarding Los Angeles Unified's contention that the parties have entered into a settlement agreement and this matter should be dismissed, OAH will not address that contention as Los Angeles Unified needs to file a separate motion that seeks to dismiss this matter, as it is not appropriate to seek dismissal of Student's complaint in a response to an entirely different type of motion. However, Student failed to establish good cause for a continuance based on the pending District Court litigation because the matters before OAH and the District Court are two separate matters. If Student wishes to the stay this matter until the District Court issues a decision on appeal, Student needs to obtain a stay from the District Court.

IT IS SO ORDERED.

DATE: May 15, 2019

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings