BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. DUBLIN UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016080413 ORDER GRANTING CONTINUANCE AND SETTING DECISION DUE DATE

On January 24, 2017, a status conference was held in this matter, before the undersigned. Melanie Larzul, attorney at law, appeared on behalf of Dublin Unified School District; Mother appeared on behalf of Student. The purpose of the status conference was to discuss the unavailability of the Administrative Law Judge who heard this matter due to a significant injury which has caused her to miss work.

APPLICABLE LAW AND DISCUSSION

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).) The Office of Administrative Hearings 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).)

Administrative Law Judge B. Andrea Miles conducted the hearing in this matter on December 13, 14 and 15, 2016. The matter was submitted for decision following the filing of written closing briefs. Right before the closing briefs were due, ALJ Miles sustained a serious injury and became unavailable and unable to work for a period of time.

The parties requested the matter be continued due to ALJ Miles' injury and the due date for issuance of a written decision extended, rather than having an alternate ALJ listen to the recordings of the hearing, read the written evidence and issue a decision.

The parties' request was granted and the due date for the decision is continued to February 15, 2017.

ORDER

1. The 45-day time line for issuance of a written decision is continued to February 15, 2017.

DATE: January 24, 2017

DocuSigned by:
Margaret Broussard
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MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings