BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: CAPISTRANO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2019020293 ORDER DENYING STUDENT'S REQUEST FOR CONTINUANCE

On February 19, 2019, the parties filed a joint request to continue the dates in this matter with the Office of Administrative Hearings, based upon the possibility that an upcoming Individualized Education Program team meeting would resolve the matter. OAH granted the continuance request on February 20. 2019, setting a prehearing conference for March 11, 2019, and hearing to commence on March 19, 2019, which OAH subsequently continued to March 20, 2019.

On March 18, 2019, Parent on behalf of Student filed with OAH a request to continue the dates in this matter based upon Student having a long term fever. On March 19, 2019, Capistrano Unified School District filed an opposition as OAH has already granted a continuance and the need to quickly determine whether Capistrano has offered Student a free appropriate public education that may be implemented over Parental objection.

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 on March 20, 2019, at 9:30 a.m. Student did not establish good cause for a continuance as Student's illness of unknown origin preceded Parent's agreement of the current hearing dates, which indicates that Parent believed that she could proceed to hearing on the given dates despite Student's long term illness. Additionally, Parent did not establish that she is incapable of attending the hearing to care for Student, just that Student has a long term illness.

IT IS SO ORDERED.

DATE: March 19, 2019

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