BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. GARDEN GROVE UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2014010895 ORDER DENYING REQUEST FOR CONTINUANCE

On January 24, 2014, Student filed a Due Process Hearing Request (complaint) naming Garden Grove Unified School District (District). On March 10, 2014, District filed a Motion to Continue the due process hearing by approximately one month, on several grounds, namely: (1) This was the first requested, brief continuance; (2) District had expected a mediation in this matter, at which it reasonably contemplated dates would be discussed, but had recently learned Student had declined to mediate: (3) District wished to observe Student in her current private placement; (4) District's special education director and legal counsel were unavailable for the expected hearing days due to prior or other commitments; and (5) Student's complaint had been the subject of two prior withdrawn complaints. On March 13, 2014, Student opposed the continuance, arguing that Student's outside funding for her private placement was about to expire and she required a timely ruling on her complaint. On March 13, 2014, District filed a reply, arguing that because Student's complaint had been the subject of two prior withdrawn complaints, Student's urgency was self-manufactured. District also reiterated its other arguments previously stated. On March 13, 2014, Student filed a response. As discussed below, the continuance is denied. The matter will proceed 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 prehearing conference and hearing dates are confirmed and shall proceed as calendared. The unavailability of District's representatives is not good cause for a continuance since District is at liberty to choose other representatives or reschedule their commitments. The anticipated mediation that did not occur, is not good cause for a continuance since mediation is voluntary, and any anticipated rescheduling of dates there would have been within Student's discretion to decline. The prior withdrawn matters are irrelevant to the timelines for this matter, which must be addressed on its own merits. Student has established that she would be prejudiced by even the brief continuance District requests. The law favors the right to timely resolution within statutorily-mandated timelines unless otherwise agreed, or good cause is stated.

IT IS SO ORDERED.

DATE: March 14, 2014

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings