BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

GREENFIELD UNION SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2019100729

ORDER DENYING REQUEST FOR CONTINUANCE WITHOUT PREJUDICE

On October 18, 2019, Greenfield Union School District filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing, called a complaint, naming Student.

During the telephonic prehearing conference on November 4, 2019, Student requested to continue the due process hearing date to January 7, 2020, to afford Parent time to acquire additional documents necessary to the presentation of Student's defense. OAH granted Student's motion to continue, affording Parent an additional 54 days to prepare for hearing.

On December 12, 2019, Student filed by United States Postal Service a Request for Continuance of Hearing Dates. The document states the continuance request is based on "itemized Requests upon summons declined by District 'Repudiate' unto IEP color copy endorsements and encrpted number pages with Rennisance Test Results, in

which, described in (Defendants) (PHC) document List Encrpted November 4, 2019, Humbly Requested." (*Sic.*) Student requested hearing dates on January 28 and 29, 2020.

On December 12, 2019, Greenfield filed a joinder in Student's request for continuance because Greenfield would prefer to have the due process hearing "proceed past the second day without a break in the proceedings," a schedule OAH allowed as an accommodation to Greenfield based on its attorney's unavailability for hearing on January 9, 2020, and objection to Student's request for a continuance based on Greenfield's desire for a hearing on its case as soon as possible.

Student's December 12, 2019 request for continuance is contradicted by another document Student filed by United States Postal Service on December 11, 2019, titled "[Continuous Motion: Reconsideration (ALJ) Misinterpretation]." (*Sic.*). In Student's motion for reconsideration, Student stated, "(Defendant) has no intention to change Hearing Dates Granted at (PHC) by (ALJ) Kara Hatfield on [November 4, 2019] as recorded." (*Sic.*)

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. (Ed. Code, § 56505, subd. (f)(3); 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 or imposing conditions on the continuance; and any other relevant fact or circumstance. (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 continuance request is denied as Student has failed to adequately explain why an additional continuance is required, and contradicts Student's other assertion that Student "has no intention to change Hearing Dates." Student's request is denied without prejudice to Student renewing the motion during the telephonic prehearing conference on December 30, 2019.

IT IS SO ORDERED.

DATED: December 13, 2019

DocuSigned by:
Kara Hatfield
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Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings