BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN DIEGO UNIFIED SCHOOL DISTRICT, MOUNTAIN EMPIRE UNIFIED SCHOOL DISTRICT, AND GROSSMONT UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2017100067 ORDER DENYING SAN DIEGO UNIFIED SCHOOL DISTRICT'S REQUEST FOR CONTINUANCE

On December 11, 2017, San Diego Unified School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon the unavailability of San Diego's attorney due to San Diego having specified employees on reduced schedules for budgetary reasons. On December 11, 2017, Mountain Empire Unified School District filed a non-opposition. Student and Grossmont Union High School District have not submitted a response.

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 hearing dates and timelines shall proceed as calendared. Here, San Diego has requested a continuance of the hearing dates, and OAH is inclined to grant the continuance based on the unavailability of its attorney. However, San Diego did not discuss and confer with the other parties regarding new hearing dates as required by OAH. Forms are available on the OAH website that explain the procedure. The parties may re-submit the request to continue after they have agreed upon hearing dates. If the parties are unable to agree on hearing dates, San Diego may file a new motion that demonstrates its attempt to meet and confer with the other parties.

IT IS SO ORDERED.

DATE: December 12, 2017

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