BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

UPLAND UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2019080542 AND 2020040245

and

UPLAND UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2020010465

ORDER DENYING REQUEST FOR CONTINUANCE

MAY 14, 2020

On May 8, 2020, Upland Unified School District filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon potentially conflicting hearing dates between the instant consolidated cases and OAH Case Number 2020040060. Upland argues that an essential witness in these consolidated cases is expected to appear as the district's hearing representative in the other matter. On May 14, 2020, Student opposed the request based upon the declaration of Student's attorney that she has a pre-paid vacation scheduled during the dates requested by Upland. On May 14, 2020, Upland replied to Student's opposition.

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. The continuance request is denied as failing to demonstrate good cause. Here, in the event that these consolidated cases and OAH Case Number 2020040060 were to actually proceed to hearing, this matter would have scheduling priority over the other case due to the length of time this case has been pending. Moreover, the hearing in this case and the hearing in the other matter are both set for three days and continue day to day at the discretion of the ALJ. There is no evidence the essential witness was unavailable on each day of the hearing and on any continuing date at the discretion of the ALJ. The matter will proceed with a videoconference hearing on the presently scheduled dates.

IT IS SO ORDERED.

DocuSigned by:
Ted Mann
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Ted Mann
Administrative Law Judge
Office of Administrative Hearings