BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of:<br><br>STUDENT,<br><br>v.<br><br>SANTA ROSA CITY SCHOOLS and WEST SONOMA COUNTY UNION HIGH SCHOOL DISTRICT. | OAH CASE NO. 2013030058<br><br>ORDER DENYING REQUEST FOR CONTINUANCE AND ORDER TO SHOW CAUSE |

CONTINUANCE REQUEST

On March 4, 2013, Student filed with the Office of Administrative Hearings (OAH) a Request for a Due Process Hearing (complaint) against the West Sonoma County Union High School District and Santa Rosa City Schools (collectively referred to as the Districts). On March 26, 2013, OAH granted the parties joint continuance request, and set the matter for hearing on June 4, 5, and 6, 2013, with a prehearing conference (PHC) for May 29, 2013.

On May 17, 2013, OAH granted an unopposed request for continuance filed by Student's then attorney, Peter Sturges, and continued the due process hearing in this matter to August 20, 2013. On June 3, 2013, the Districts filed a request to continue the August 20, 2013 hearing date to a later date. That request and was denied on June 12, 2013.

On June 12, 2013, OAH also received a letter from Student himself, not Mr. Sturges, opposing the Districts' request for continuance, and asking OAH to reschedule the August 20, 2013 hearing to an earlier date in August. On June 19, 2013, the Districts filed an opposition to Student's request to advance the hearing. Subsequently OAH was informed that Mr. Sturges was no longer legal counsel for Student and Student was representing himself. On July 12, 2013, OAH granted Student's request to move up the hearing dates and set the hearing for August 6, 2013, and continuing day to day, and the PHC for July 29, 2013.

At the July 29, 2013 PHC, Student made another continuance request, which the Districts opposed. Student made the request for additional time to seek legal counsel. OAH granted the continuance request, and set the matter for hearing for September 10, 11 and 12, 2013, and the PHC for August 26, 2013. Student was also advised to file a PHC statement, which was not filed before the July 29, 2013 PHC, by 5:00 p.m. on August 21, 2013. Student failed to comply with the PHC order and did not submit a PHC statement.

On August 23, 2013, Mother, on behalf of Student, filed another request to continue the dates in this matter based upon inability to prepare for hearing and need to obtain legal counsel. The Districts were not apparently served a copy of the continuance request as the request did not contain a proof of service, and the Districts did not submit 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 prehearing conference and hearing dates are confirmed and shall proceed as calendared. As stated in the above factual narrative, there have already been three continuances in this matter. Additionally, after OAH moved up the hearing dates at Student's insistence, Student has now requested twice to move back the hearing dates. The reasons set forth in the continuance, submitted only a business day before the scheduled PHC, do not establish good cause for a continuance. Accordingly, Student's continuance request is denied.

## ORDER TO SHOW CAUSE

At the PHC set for 10:00 a.m. on August 26, 2013, Student shall show cause why this matter should not be dismissed for failure to participate, prosecute or advance the matter. Student failed to comply with the PHC order of July 29, 2013, by not submitting a PHC

statement by 5:00 p.m. on August 21, 2013.[1] The reasons why Student did not submit a PHC conference statement shall be considered and an order issued subsequently.

IT IS SO ORDERED.

Dated: August 23, 2013

/s/
PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

[1] Mother, who represented Student at the PHC, was warned about the consequences of not filing the PHC conference statement as the July 29, 2013 PHC order stated "Failure to comply with this order may result in the exclusion of evidence or other sanctions."