BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018020255
v.	ORDER DENYING REQUEST FOR CONTINUANCE
SANTA ROSA CITY SCHOOLS.	

On March 9, 2018, Santa Rosa City Schools filed a request to continue the dates in this matter for five weeks with the Office of Administrative Hearings. The matter is currently set to proceed to hearing on April 3, 2018, which is Santa Rosa's spring break. Santa Rosa asserted that several district witnesses would not be available to testify due to preplanned vacations. In support of its motion, Santa Rosa submitted the declaration of its Special Education Program Manager, Julie Promes, who contacted educators currently working with Student at a nonpublic school to ascertain their availability that week. Per the declaration, the school's director is out of the country, the behavior specialist has, "plans to be out of town," the second behavior specialist, has "plans to be out of town," and the program coordinator has "childcare conflicts." The status of Student's occupational therapist and speech and language therapist is unknown, and Student's teacher and the clinical director are available that week. Santa Rosa's counsel also submitted a declaration regarding unviability on some dates during the remaining weeks, including scheduled mediations on April 10, 2018, and April 12, 2018.

On March 13, 2018, Student submitted an opposition to Santa Rosa's motion to continue. Student asserted that he will be prejudiced by a five-week continuance, in part, due to the current intensity of his behavior needs. Student submitted a declaration from counsel and Father detailing his recent behavior incidents, some of which have involved 911 assistance and intervention. Student did not object to a one week continuance.

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. Spring break, in and of itself, does not constitute good cause for a continuance. Santa Rosa established that some requested witnesses will be out of town the week of April 3, 2018. However, many witnesses are available that week. Accordingly, good cause has not been established to continue the entire case. Witness unavailability of particular witnesses can be addressed to the Administrative Law Judge assigned to hear the matter.

IT IS SO ORDERED.

DATE: March 14, 2018

DocuSigned by:
Joy Redmon
5155E4ECA68C4B1...

JOY REDMON
Presiding Administrative Law Judge
Office of Administrative Hearings