BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

and

IRVINE UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2021080012

OAH CASE NUMBER 2021080052

ORDER DENYING REQUEST FOR CONTINUANCE

SEPTEMBER 1, 2021

On August 26, 2021, Student filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon multiple conflicts in the calendar for Student's attorney. No response has been received from Irvine Unified School District.

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.

Student's attorney contends that she has calendar conflicts with other cases through November 4, 2021, at which time she has a prearranged vacation through November 8, 2021. Student requests a continuance to November 16, 2021. Counsel provides a list of purportedly conflicting cases, but does not indicate the dates that those cases are scheduled to go to hearing. Counsel provides no information that the proposed dates are agreeable to Irvine, or that she attempted to meet and confer with Irvine's counsel on mutually agreeable hearing dates. In addition, Student is represented by a special education firm with multiple attorneys, and a conflict in the schedule of one attorney does not establish a conflict with all attorneys in that firm. Lastly, the hearing in these consolidated matters is not scheduled to begin for three

weeks, and the case in conflict may settle during that time. A continuance because Student's counsel is assigned to handle a hearing which may or may not go forward, and may or may not be reassigned to other counsel, is premature.

All prehearing conference and hearing dates are confirmed and shall proceed as calendared. The continuance request is denied.

IT IS SO ORDERED.
Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings