BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of: | |
| ANAHEIM CITY SCHOOL DISTRICT, | OAH Case No. 2017010041 |
| v. | ORDER DENYING REQUEST FOR CONTINUANCE |
| PARENT ON BEHALF OF STUDENT. | |

On December 28, 2016, District filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings, naming Student. District seeks to have Student assessed without Parent's consent and without the limitations or conditions placed on the assessment by Parent. The matter was originally scheduled for a hearing to begin January 25, 2017.

On January 13, 2017, Student filed a motion to continue the due process hearing. On January 20, 2017, at telephonic prehearing conference at which Parent did not appear, the matter was continued to the current hearing date of April 25, 2017.

On January 5, 2017, Student filed a motion to dismiss arguing the merits of District's claims. The motion was denied by OAH on January 18, 2017. On January 19, 2017, Student filed a second motion to dismiss arguing the merits of the allegations in the complaint. On January 24, 2017, OAH treated the motion as a request for reconsideration and denied the motion. On March 1, 2017, Student filed a motion to dismiss, again arguing the merits of the District's case, and that District's issue was moot because it was resolved at mediation. On March 8, 2017, OAH denied Student's motion on the grounds that it sought a ruling on the merits of District's claims. On March 10, 2017, Student filed a motion for reconsideration, which OAH denied on March 13, 2017. On March 23, 2017, Student filed a motion to dismiss and motion for summary judgment. OAH denied the motion on March 24, 2017. On April 4, 2017, OAH denied Student's request for reconsideration of that denial. On April 14, 2017, OAH proceeded with the scheduled prehearing conference in this matter at which Parent did not appear. On April 17, 2017, Student filed a request to continue the dates in this matter, based upon the purported need for other government agencies to investigate and issue reports on District's underlying claims. On April 19, 2017, Student submitted objections to OAH's April 14, 2017 Prehearing Conference Order, which was treated as a request to reopen the Prehearing Conference. Both requests were denied by Order dated April 19, 2017. On April 20, 2017, Student filed a "Motion for Continuance, and Notice of Filing by Parents in U.S. District Court for Said Matters to be Properly Heard." OAH denied the continuance on April 20, 2017. On April 21, 2017, Student filed a Motion to Dismiss, arguing that OAH lacks jurisdiction over the matters alleged in the complaint. The motion was treated as a request to reconsider OAH's April 20, 2017 ruling, and was denied.

On April 24, 2017, Parent filed a request for continuance of the hearing scheduled to commence tomorrow. On April 24, 2017, District opposed. As discussed below, the motion is denied.

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. Parent argues that a continuance is needed for urgent religious reasons, specifically that Parent is an Ordained Catholic Priest since 2008 and was elevated to the position of Monsignor in 2015, and has been ordered by Archbishop Jose L. Acuna for the Catholic Apostolic Church in America known as the Descendant Church of the Brazilian Catholic Apostolic Church in Brazil, to appear at a Bishops Conference in San Diego from April 24-28, 2017. Parent contends he did not receive notice of this mandatory meeting until April 20, 2017 when he received a letter from Archbishop Acuna. The request attaches as an Exhibit a, April 17, 2017 letter, signed by Jose Acuna, Auxiliary Bishop to the Catholic Apostolic Church in America, and Archbishop to the Worldwide Communion of Catholic Apostolic Churches.

The continuance is denied. It is not credible that such an event as a mandatory meeting of bishops, would be organized and noticed on such short notice. The hearing will proceed tomorrow as calendared.

IT IS SO ORDERED.

DATE: April 24, 2017

DocuSigned by:
June Lehrman
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JUNE R. LEHRMAN
Presiding Administrative Law Judge
Office of Administrative Hearings