BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANTIOCH UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018050541 ORDER DENYING REQUEST FOR CONTINUANCE

On May 11, 2018, Parent on behalf of Student filed a request for due process hearing (complaint) naming Antioch Unified School District as respondent. On June 27, 2018, the parties jointly filed a stipulation to a continuance of the hearing. The stipulation noted that both parties had witnesses with pre-paid vacation plans which resulting in being unavailable for the scheduled dates. However, the witnesses in question were not identified and the unavailability was not supported by any evidence.

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; 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).)

Every continuance delays the resolution of the educational program of the Student involved. For this reason, good cause is required in order for a continuance to be granted. (Ed. Code § 56505(f)(3).) Thus, OAH does not automatically grant continuances nor are stipulations to continuances allowed.

The requested continuance is DENIED without prejudice to the parties' submitting a new request with supporting evidence establishing good cause.

IT IS SO ORDERED.

DATE: June 27, 2018

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Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings