BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: UPLAND UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018120181 ORDER DENYING STUDENT'S REQUEST FOR CONTINUANCE

On February 11, 2019, the Office of Administrative Hearings received Student's request to continue the dates in this matter, based upon concerns that Parent on behalf of Student has had regarding rulings made by Administrative Law Judge Alexa Hohensee in this matter and the prior hearing between the parties in OAH Case No. 2017100459. Upland Unified School District has not filed 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. Student has not demonstrated grounds for a continuance as Student's motion is more aptly described as a challenge of ALJ Hohensee for cause, which will be ruled upon separately. (Gov. Code, § 11425.40.) In any event, even if Student's challenge for cause is

granted, OAH will assign another ALJ to hear this matter as presently scheduled for February 21, 2019.[1]

IT IS SO ORDERED.

DATE: February 11, 2019

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings

[1] Student's Motion to Dismiss, which OAH received on February 11, 2019, will be ruled on separately.