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 October 2, 2018, Antioch Unified School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon a conflict with another case. Later on October 2, 2018, Student opposed the request based upon the fact that the case had previously been continued and the case presenting the conflict filed after this one.

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).)

Three other requests for continuance have been granted in this case. The case that conflicts with this matter was filed two months after this one. OAH generally gives precedence to the earlier filed case and no justification for making a decision contrary to that policy has been asserted by Antioch in this instance. Good cause has not been established for another continuance. The request is DENIED.

IT IS SO ORDERED.

DATE: October 3, 2018

DocuSigned by:
Penelope S. Pahl
B3DF836E5DA94F2...

PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings