BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. PASADENA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016030805
PASADENA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016060614 ORDER DENYING REQUEST FOR CONTINUANCE

On July 11, 2016, the parties filed a joint request to continue the hearing dates in this matter to October. The request is denied. The matter will proceed as scheduled.

Student originally filed its Request for Due Process Hearing in OAH Case Number 2016030805 on March 17, 2016. The matter was scheduled for hearing to begin May 11, 2016. On April 28, 2016, the parties jointly requested and on May 2, 2016, were granted a continuance, setting the hearing for the requested dates of July 12, 13, and 14, 2016.

On June 9, 2016, District filed a Request for Due Process Hearing in OAH Case Number 2016060614, naming Student. On June 23, 2016, OAH consolidated the Student's and District's matters pursuant to District's unopposed motion to consolidate, and confirmed the previously-set hearing dates.

On July 6, 2016, Student moved to continue, alleging counsel's unavailability on the hearing dates. District opposed, stating its intent to proceed on the scheduled dates, and the request was denied on July 7, 2016. Student moved to reconsider the denial, District opposed reconsideration, and on July 8, 2016 reconsideration was denied. Thus the current hearing dates were confirmed.

On July 11, 2016, District requested a "trial setting conference," asserting for the first time that its witnesses were unavailable on the current hearing dates.

On July 11, 2016, Student dismissed its case, OAH Case Number 2016030805, leaving only District's case, OAH Case Number 2016060614 remaining to be heard.

On July 11, 2016, the parties filed a joint request to continue the dates in this matter to October, stating no reasons for the request.

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. No good cause is given for the request for a lengthy continuance to October. OAH has already twice denied Student's previous requests for continuance on the basis of counsel's scheduling conflicts.

District's previous filings indicate that one of District's witnesses may be unavailable on the scheduled dates, but no good cause is stated for why: (1) the witness is unavailable; (2) other witnesses cannot be timely examined, and the unavailable witness rescheduled; (3) the unavailability of this witness was not known

by District prior to the eve of trial, nor (4) why this justifies a lengthy delay. The request is denied, and the matter will proceed as scheduled

IT IS SO ORDERED.

DATE: July 11, 2016

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