BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. FRESNO UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015070319 ORDER DENYING REQUEST FOR CONTINUANCE

On September 17, 2015, Student filed a request for continuance in this matter. Student requests a continuance because an individualized education program team meeting was held on September 15, 2015 and Student alleges that the IEP does not offer Student appropriate services. Student would like the hearing delayed so that it begins on September 28, 2015 to give him time to submit the additional evidence regarding that IEP team meeting to Fresno Unified School District. Fresno filed a non-opposition to the motion but does not concede that evidence regarding the September 15, 2015 IEP is relevant to the issues identified in this matter.

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 hearing dates and timelines shall proceed as calendared. The September 15, 2015 IEP will not be at issue in this case, as it was not included in the original complaint and the complaint has not been amended to include the IEP. While the IEP and associated documents may have some relevance to the issues identified in this matter, this matter will not be continued solely to allow time for Student to serve these documents on Fresno. Student may serve the documents on Fresno and then, if he wishes to admit them at hearing, make the appropriate motion at hearing. After both parties are heard on the matter, the ALJ will make a determination regarding admissibility.

IT IS SO ORDERED.

DATE: September 18, 2015

/s/

MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings