BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

ANAHEIM ELEMENTARY SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2020090678

ORDER GRANTING REQUEST FOR CONTINUANCE

OCTOBER 27, 2020

On October 27, 2020, Administrative Law Judge Rommel Cruz held a due process hearing by videoconference. Present were Attorney Lauri Arrowsmith and law clerk Morgan Kimmey for Anaheim Elementary School District. Senior Director of Special Services Kristin Cinco appeared on behalf of Anaheim Elementary. Parent appeared by audio.

On October 27, 2020, at approximately 12:50 PM., Parent on behalf of Student filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon Student's illness and Parent's need to care and seek medical treatment for Student that afternoon. Parent represented that he had notified Anaheim Elementary that Student was ill on October 26, 2020. At the hearing, Anaheim Elementary confirmed that Parent had notified Anaheim Elementary of the illness and

that Student received medical treatment. Parent did not mention the illness in any pleadings filed by Student on October 26, 2020. At the hearing in the morning, Parent did not mention the illness at the start of the hearing, nor did he mention that he would be unavailable to attend the hearing in the afternoon. Furthermore, Parent provided conflicting information as to his ability to participate in the hearing, stating at the hearing he was not at home during the morning, yet left Student in the care of his other parent. At the hearing, Anaheim Elementary did not object to a short continuance.

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. (Ed. Code, § 56505, subd. (f)(3); 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 or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The continuance request is granted to allow Parent to attend to Student' illness. The due process hearing is continued to October 28, 2020. The hearing shall begin at 9:30 AM. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge.

If Student seeks a further continuance of the hearing, the request for continuance shall be supported by declaration and medical documentation dated October 27, 2020. Any further motion to continue this matter shall be filed no later than 5:00 PM on October 27, 2020, by way of OAH's secure e-file transfer system. Parties shall not submit any document to OAH by email.

IT IS SO ORDERED.

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Rommel P. Cruz
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Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings