BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SAN DIEGUITO UNION HIGH SCHOOL DISTRICT,	OAH Case No. 2016120475
SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016101051 ORDER DENYING SAN DIEGUITO UNION HIGH SCHOOL DISTRICT'S REQUEST FOR CONTINUANCE

On January 18, 2017, San Dieguito Union High School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon District being scheduled for hearing in another matter, OAH Case Number 2016070959. On January 18, 2017, Student opposed the request based upon the contention that District did not establish good cause for a continuance as the start of the hearing on February 7, 2017, in Student's case, 2016120475, was the same date that the parties agreed to on November 7, 2016, when agreeing to a continuance in District's case, OAH Case Number 2016101051.

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. District did not establish good cause for a continuance as it and Student agreed on November 7, 2016, to commence the hearing on February 7, 2017, in District's Case, 2016101051, at the prehearing conference. A week later in the prehearing conference for OAH Case Number 2016070959, District agreed to start that hearing also on February 7, 2017. While Student filed his case, 2016120475, on December 13, 2016, OAH's Scheduling Order set the hearing to start on February 7, 2017, and OAH denied Student's continuance request on December 16, 2016, as Student did not demonstrate good cause to continue the consolidated matter beyond the date the parties previously agreed on. Further, District in its non-opposition to Student's consolidation and continuance request failed to raise the hearing conflict as grounds to grant Student's continuance request. Therefore, District failed to establish good cause for a continuance as District itself agreed to start two different hearings on February 7, 2017, and conflict of counsel is not an issue as District is represented by two different attorneys in these matters. Thus, District's continuance request is denied.

IT IS SO ORDERED.

DATE: January 19, 2017

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