BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016060728 ORDER DENYING STUDENT'S REQUEST FOR CONTINUANCE

On January 27, 2017, Mother, on behalf of Student filed, a request to continue the dates in this matter with the Office of Administrative Hearings, based upon Mother not completing the conservatorship process so she may hold Student's educational rights as Student is over the age of 18. Los Angeles Unified School District did not submit a response, and it is unclear if Mother served a copy of the continuance request on District. OAH granted Mother's previous continuance request on July 29, 2016, to give Mother additional time to prepare hearing, and then on September 8, 2016, after the hearing commenced, OAH further continued the matter until February 7 and 8, 2017, to permit Mother obtain conservatorship over Student.[1]

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).)

[1] Student would turn 18 during the pendency of the hearing and subsequent decision.

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. Mother did not establish good cause for a continuance as five months have elapsed since the prior continuance and no evidence was submitted to document that a conservatorship request was ever made and the status of the request. Therefore, the hearing shall resume on February 7, 2017.

IT IS SO ORDERED.

DATE: February 3, 2017

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