BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017110028
v.	ORDER DENYING REQUEST FOR CONTINUANCE WITHOUT PREJUDICE
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT.	

On October 31, 2017, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Santa Monica-Malibu Unified School District. On November 15, 2017, OAH granted the parties' joint request to continue the due process hearing. On January 29, 2018, OAH granted the parties' joint second request to continue the due process hearing due to unavailability of Student's expert witness. OAH set the due process hearing for March 20-22, 2018. On March 14, 2018, Student's attorney filed a Notice of Withdrawal from the case. On March 16, 2018, Parent filed a request to continue the due process hearing to allow time to review Student's file and for Parent to prepare to represent Student in the hearing.

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 has reviewed the request for good cause and considered all relevant facts and circumstances. Student's attorney withdrew on the eve of the hearing after having represented Student since filing the complaint on Student's behalf on October 31, 2017. Parent requested a continuance of the hearing dates, and OAH is inclined to grant the continuance. However, Parent did not request any specific dates. Moreover, there is no indication Parent contacted District's attorney to discuss the continuance and seek agreement upon new hearing dates, as required by OAH. Forms are available on the OAH website explaining the procedure.

Accordingly, Parent's request for a continuance is:

☒ Denied without prejudice. All hearing dates and timelines shall proceed as calendared. The parties may submit a joint request to continue the due process hearing after they have agreed upon hearing dates. If the parties are unable to agree on hearing dates, they may request OAH to select dates. In the event District and Parent are unable to agree upon dates, or District opposes Parent's continuance request, Parent may resubmit a request for continuance that includes the specific due process hearing dates Parent is requesting.

IT IS SO ORDERED.

DATE: March 16, 2018

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings