BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. BUENA PARK SCHOOL DISTRICT.	OAH Case No. 2016090918 ORDER DENYING REQUEST FOR CONTINUANCE

On December 19, 2016, Student filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon Student retaining new legal representation and Student's counsel needing time to prepare for mediation and hearing. On December 20, 2016, Buena Park School District opposed the request based upon Student not meeting and conferring with District's counsel as to the continuance request and Student not establishing good cause for a continuance in any event. OAH granted the parties' previous continuance on October 31, 2016, which set this matter for mediation on January 4, 2017, Prehearing Conference for 10 a.m., on January 27, 2014, and hearing on February 7 – 9, 2017.

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. First, Student did not discuss and confer with District regarding new hearing dates as required by OAH. Forms are available on the OAH website that explain the procedure. The parties may re-submit the request to continue if they have agreed upon hearing dates. If the parties are unable to agree on hearing dates, they may request OAH to select dates. Secondly, Student retaining new legal counsel is not good cause by itself for a continuance as Student's new counsel knew of the existing hearing dates when accepting representation of Student and did not establish that insufficient time exists to prepare for the scheduled mediation and hearing.

IT IS SO ORDERED.

DATE: December 21, 2016

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