BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016100887
v.	ORDER DENYING REQUEST FOR CONTINUANCE AND SETTING EXTRA DAY OF HEARING
BELLFLOWER UNIFIED SCHOOL DISTRICT.	

On May 16, 2017, the parties filed a third joint request to continue the dates in this matter with the Office of Administrative Hearings, based upon desire to have five contiguous hearing dates, which was caused in part by OAH vacating the May 16, 2017 hearing date.

Previously, on March 3, 2017, Bellflower Unified School District filed a request to continue the dates in this matter based upon OAH's February 7, 2017 Scheduling Order after OAH granted Student's motion to amend his complaint that set the due process hearing for the week District's spring break. On March 8, 2017, Student filed a response to the request indicating the parties had reached a stipulation to continue the due process hearing to May 15, through 19, 2017. OAH did not grant the parties' request for Monday or Friday hearing dates.

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. Parties did not establish good cause for a continuance until September 2017, especially as Student's case was filed on October 13, 2016, and a decision based on September 2017 hearing dates would mean that the decision would be issued over a year from when Student filed the complaint, which goes against the purpose of Individuals with Disabilities Education Act to ensure the timely resolution of disputes. Granting the parties' request does not further the intent of the IDEA. As the parties previously requested May 19, 2017, as a hearing date, OAH will add May 19, 2017, as a third day of hearing, and parties can discuss the scheduling of any additional days for hearing with the assigned Administrative Law Judge. Further, this hearing once commenced shall take priority over any other scheduled hearing that has not commenced or mediation.

IT IS SO ORDERED.

DATE: May 16, 2017

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