BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CONTRA COSTA COUNTY OFFICE OF EDUCATION AND CONTRA COSTA COUNTY PROBATION DEPARTMENT.	OAH CASE NO. 2013080462 ORDER DENYING MOTION FOR A CONTINUANCE, WITHOUT PREJUDICE

On September 12, 2013, Contra Costa County Office of Education (CCCOE) filed with the Office of Administrative Hearings (OAH) a request to continue the dates in this matter based upon Jennifer Rowe Gonzalez, counsel for CCCOE not being available for the dates currently set for hearing, September 24, 25 and 26, 2013. On September 12, 2013, Contra Costa County Probation Department joined CCCOE's request. Student has not filed a response to the continuance request.

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 Without Prejudice. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. On August 28, 2013, OAH calendared this case and OAH Case Nos. 2013080449 and 2013080471 for the same three days of hearing as they involved common questions of facts and law. Previously, each case was set for one day, September 24, 25 and 26, 2013, respectively, pursuant to the August 15, 2013 scheduling orders. CCCOE's continuance request is based on Ms. Rowe Gonzalez's unavailability for a medical appointment for her child for September 24, 2013. However, CCCOE's continuance request does not include a declaration under penalty of perjury from Ms. Rowe Gonzalez's as to when this medical appointment was scheduled and why the continuance request was not made closer to the August 15, 2013 or August 28, 2013 scheduling orders. Accordingly, CCCOE's continuance request is denied without prejudice as CCCOE may resubmit with motion with the required declaration from Ms. Rowe Gonzalez.

IT IS SO ORDERED.

Dated: September 13, 2013

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings