BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. IRVINE UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015071195 ORDER DENYING REQUEST FOR CONTINUANCE WITHOUT PREJUDICE

On August 28, 2015, Irvine Unified School District filed a request with the Office of Administrative Hearings to continue the dates in this matter based upon the unavailability of its legal counsel and District representatives and requested that OAH set the matter for hearing on December 8 – 10, 2015. On September 1, 2015, Student opposed the request based upon the length in the delay as Student would not oppose a shorter continuance. Both parties stated that the hearing is presently scheduled for October 6, 2015. However, OAH sent a subsequent amended scheduling order on July 29, 2015, that set the matter for hearing on September 15, 2015, with a September 11, 2015 prehearing conference.

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. The position of the parties is based on unavailability on

October 6, 2015, when in fact the hearing is scheduled to begin on September 15, 2015. As the parties may be available for hearing on September 15, 2015, District's continuance request is denied without prejudice. If parties are not available, OAH strongly advises the parties to meet and confer as to mutually agreeable hearing dates.

IT IS SO ORDERED.

DATE: September 1, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings