

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAREMONT UNIFIED SCHOOL  
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2013060516

ORDER DENYING STUDENT'S  
REQUEST FOR CONTINUANCE,  
WITHOUT PREJUDICE

On August 2, 2013, Parents and Student (collectively, Student), filed two sets of documents regarding a request to continue the prehearing conference and hearing dates in this matter. The first set of documents consisted only of a fax cover sheet and a proof of service showing service on Claremont Unified School District (District) and its counsel. The second set of documents consisted of a fax cover sheet, a letter requesting a continuance of the matter so that Student could obtain counsel, and a proof of service that did not reflect service on District or District's counsel. District filed no response to either set of documents.

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).)

ANALYSIS

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is denied, for three reasons. First, there was no evidence that the

Student's letter requesting the continuance was served on the District, which can be properly done by serving District's counsel. Due process requires that Student serve District, through its counsel, with all documents that Student files with OAH.

Second, Student previously filed a request for continuance based upon Student's family's scheduling conflicts, and that request was granted. The previous request for continuance did not mention any need for counsel, and, in any event, the continuance that OAH granted in response to the first request for continuance was of sufficient length for Student to obtain counsel. Student has offered no reason why Student has not yet been able to obtain counsel, and has not detailed the efforts, if any, Student has made to obtain counsel. Therefore, Student has not made a sufficient showing of good cause to support Student's request for continuance.

Third, even if OAH were inclined to grant Student's request for continuance, Student's request does not propose any hearing dates. Furthermore, there was no showing that Student discussed and conferred with the District regarding new hearing dates, as required by OAH. Forms are available on the OAH website that explain the procedure. Trial setting conferences are set only in unusual cases, and this is not an unusual case.

Consequently, for all of these reasons, the Student's request for continuance is DENIED WITHOUT PREJUDICE. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Dated: August 7, 2013

/s/

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ELSA H. JONES  
Acting Presiding Administrative Law Judge  
Office of Administrative Hearings