

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENT ON BEHALF OF STUDENT,  v.  LOWELL JOINT SCHOOL DISTRICT,	OAH CASE NO. 2014120956
LOWELL JOINT SCHOOL DISTRICT,  v.  PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2015031246  ORDER DENYING REQUEST FOR CONTINUANCE WITHOUT PREJUDICE

On April 7, 2015, the parties filed a joint request with the Office of Administrative Hearings to continue the dates in this matter based upon a possible conflict in dates with OAH Case No. 20150120658 for legal counsel of Lowell Joint School District. The primary matter in this consolidated matter was continued on January 8, 2015, and set for hearing on April 20 – 23, 2015, with a Prehearing Conference for April 13, 2015, at 1:00 p.m. The parties request that this consolidated matter be continued until August 2015.

On January 13, 2015, OAH granted the parties' joint continuance request in OAH Case No. 20150120658, and set that matter for hearing for April 15 and 16, 2015. At the PHC for OAH Case No. 20150120658, two additional days were set for hearing, April 20 and 21, 2015.

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 parties' continuance request is premature as the hearing in OAH Case No. 20150120658 has not yet commenced. Therefore, it is not known if an actual conflict for District's counsel exists. Further, in some of the cases in which counsel for Student and District note a potential conflict for early May 2015, mediations that might resolve those matters are scheduled for next week. (OAH Case Nos. 2015010269 and 2015010700.) Accordingly, the parties' continuance request is denied without prejudice.

IT IS SO ORDERED.

DATE: April 8, 2015

/s/

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PETER PAUL CASTILLO  
Presiding Administrative Law Judge  
Office of Administrative Hearings