

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CARLSBAD UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015070616

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
MEDIATION, PREHEARING
CONFERENCE AND HEARING
DATES

On November 17, 2015, Student filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon the unavailability of Student's counsel as Student's counsel will be in hearing in another matter. Student did not specify dates for the continuance to be granted to. On November 19, 2015, Carlsbad Unified School District filed a non-opposition, and gave requested continued dates. OAH previously granted that parties' joint continuance request on July 31, 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:

Granted. All dates are vacated. Student set forth good cause for a continuance as Student's counsel is in the midst of an ongoing hearing in OAH Case No. 2015080848

during the dates presently set in this matter. As Student's counsel did not meet and confer with District's counsel regarding agreeable dates nor set forth requested dates, the matter will be scheduled on the dates set forth by District. Therefore, this matter will be set as follows:

Mediation: January 21, 2016, at 9:30 AM
Prehearing Conference: February 8, 2016, at 10:00 AM
Due Process Hearing: February 16, 2016, at 1:30 PM, February 17 and 18, 2016, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. This matter is assigned to Administrative Law Judge Darrell Lepkowsky.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: November 20, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings