

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

SADDLEBACK VALLEY UNIFIED  
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015110249

ORDER GRANTING STUDENT'S  
REQUEST FOR CONTINUANCE AND  
SETTING HEARING

On November 30, 2015, Student filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon desire to obtain legal counsel and lack of time to prepare for the hearing due to holiday's and family emergencies. On November 30, 2015, Saddleback Valley Unified School District opposed the request based upon Parents' lateness in bringing the hearing request after the prehearing conference and that the District is ready to proceed to hearing.

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 established good cause to continue the hearing to obtain legal counsel. Student did not establish good cause, however, for a

three-month continuance. Additionally, since Parents did not participate in the November 23, 2015 prehearing conference, although having notice, and not providing good cause as to their non-participation, it will not be rescheduled and the prehearing conference order stands, other than the hearing dates. Therefore, this matter will be set as follows:

Due Process Hearing: February 2, 2016, at 9:30 AM, February 3, 2016, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

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: December 1, 2015

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PETER PAUL CASTILLO  
Presiding Administrative Law Judge  
Office of Administrative Hearings