

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ALHAMBRA UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2015120060

ORDER DENYING REQUEST FOR  
CONTINUANCE

On January 15, 2016, the parties filed a joint first request to continue the dates in this matter with the Office of Administrative Hearings, which OAH granted on January 19, 2016. Matter is presently set for a prehearing conference on April 15, 2016, and due process hearing on April 18 through 21, 2016.

On April 8, 2016, the parties filed a second request to continue the dates in this matter with OAH, based upon the parties recently agreeing that Alhambra Unified School District would fund independent assessment, which would not be completed until July 30, 2016. The parties request continued hearing dates of August 1, 2016 through September 1, 2016.

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 did not establish good cause for an additional four month continuance in this to permit the completion of independent assessment. Student filed the complaint on November 30, 2015, and if the hearing proceeds as requested, almost a year will have elapsed until a decision is issued. Parties provided no explanation by way of declaration for the delay in agreeing to the independent assessments. This goes against the speedy resolution mandate of the Individuals with Disabilities Education Act. Therefore, the request to continue is denied.

IT IS SO ORDERED.

DATE: April 11, 2016

DocuSigned by:  
*Peter Paul Castillo*  
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PETER PAUL CASTILLO  
Presiding Administrative Law Judge  
Office of Administrative Hearings