

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

MESA UNION ELEMENTARY SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2016010070

ORDER DENYING REQUEST FOR
CONTINUANCE

On April 6, 2016, Parent’s advocate filed with the Office of Administrative Hearings a request to continue the mediation that was scheduled for the following day, April 7, 2016. The parties then cancelled the April 7, 2016 mediation date.

On April 11, 2016, District filed an opposition to the request. District pointed out that the request did not seek mediation on a date certain, but requested a continuance of “two to four weeks.” Since the due process hearing in this matter is scheduled for April 25-27 and May 3-5, 2016, the requested mediation date would fall after the hearing. District moreover pointed out an ambiguity in the request, which at one point stated it was seeking a continuance of the mediation, and at another point referenced a continuance of the hearing itself.

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. The request is ambiguous in what it is seeking. The only cause stated is advocate's preparation-time and scheduling conflicts for the April 6 mediation. However, as the mediation date has passed, and this matter has been twice continued previously, that is an insufficient reason for a further continuance. In regard to the hearing dates, advocate has ample time to prepare for a hearing not set to commence until April 25. All hearing dates and timelines shall proceed as calendared.

IT IS SO ORDERED.

DATE: April 12, 2016

DocuSigned by:

June Lehman

JUNE R. LEHRMAN

Presiding Administrative Law Judge
Office of Administrative Hearings