

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ANTELOPE VALLEY UNION HIGH
SCHOOL DISTRICT.

OAH Case No. 2016010357

ORDER GRANTING JOINT REQUEST
FOR CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING

On February 17, 2016, Student and Antelope Valley Union High School District filed a joint request to continue the dates in this matter with the Office of Administrative Hearings. In his sworn supporting declaration, Student's counsel requested the continuance on grounds that Student is over the age of 18, but Parent will seek to be appointed Student's conservator at a court hearing to be held on May 5, 2016. The parties submitted a copy of the court's notice of the May 5, 2016 conservatorship hearing.

The parties requested that the continuance extend well beyond the May court date, on the additional basis of District's unavailability due to another case scheduled with OAH, and the unavailability of necessary witnesses such as teachers during the summer. The parties therefore requested that the hearing be continued to August 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 parties demonstrated good cause to continue the matter through the date

of Student's conservatorship hearing, to determine Parent's standing to represent Student. The parties did not demonstrate good cause to continue the hearing until August 2016. The pendency of a second, unspecified OAH matter involving the District would not support a continuance, and nothing in the IDEA provides for suspension of hearings during the summer months.

Accordingly, the parties' joint request for continuance is:

Granted, with adjustment of the parties' requested dates. All dates existing dates are vacated, and the matter will be set as follows:

Prehearing Conference: May 13, 2016 at 1:00 p.m.
Due Process Hearing: May 23-26, 2016, commencing at 1:30 p.m. on May 23, and at 9:00 am each day thereafter, 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: February 17, 2016

DocuSigned by:
June Lehrman

JUNE R. LEHRMAN

Presiding Administrative Law Judge
Office of Administrative Hearings