

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ALAMITOS UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2016010523

ORDER GRANTING IN PART AND
DENYING REQUEST FOR
CONTINUANCE AND SETTING DUE
PROCESS HEARING

On February 3, 2016, the parties filed a joint request to continue the initially set dates in this matter with the Office of Administrative Hearings, based upon the unavailability of legal counsel for the Los Alamitos Unified School District. The hearing is presently scheduled to begin on March 3, 2016, and parties requested that the hearing dates be March 7, 8, 14, and 16, 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:

Granted in part and Denied in part. Hearing date is vacated and prehearing conference remains as scheduled. Parties established good cause for a brief continuance due to the unavailability of District's legal counsel on March 3, 2016, due to a conflict with an ongoing hearing. However, the parties did not establish good cause to break up the hearing

over two weeks, instead of having the hearing scheduled during one week. Further, March 7, 2016, is not available as OAH has a scheduled Administrative Law Judge meeting that day. Therefore, this matter will be set as follows:

Due Process Hearing: March 8, 2016, at 9:30 AM, March 9 and 10, 2016, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. Matter 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: February 24, 2016

DocuSigned by:

Peter Paul Castillo

PETER PAUL CASTILLO

Presiding Administrative Law Judge
Office of Administrative Hearings