

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

POWAY UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2016030201

ORDER DENYING REQUEST FOR
CONTINUANCE

On March 4, 2016, Parent, on behalf of Student, filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon need to obtain legal counsel. Poway Unified School District did not file a response, and it does not appear that Parent served a copy of the continuance request on District's legal counsel.

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 hearing dates and timelines shall proceed as calendared. Here, Student has requested a continuance of the initially set hearing dates, and OAH is inclined to grant the continuance. However, Student did not discuss and confer with District's legal counsel regarding new hearing dates as required by OAH, nor serve a copy of the continuance request on District's legal counsel. Forms are available on

the OAH website that explain the procedure. Student may re-submit the request to continue after discussing mutually agreeable hearing dates with District's legal counsel. If the parties are unable to agree on hearing dates, they may request OAH to select dates. The mediation scheduled for March 17, 2016, remains as calendared unless cancelled by the parties with the Office of Administrative Hearings.

IT IS SO ORDERED.

DATE: March 14, 2016

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings