

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEMPLE CITY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2016040490

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

On May 20, 2016, the parties filed a joint request to continue the mediation, prehearing conference, and hearing. On May 23, 2016, Presiding Administrative Law Judge Peter-Paul Castillo denied the request, without prejudice, because there was not a declaration explaining why the parties failed to make the request prior to the May 20, 2016 prehearing conference. On May 24, 2016, Student's counsel submitted a declaration, explaining that the parties were trying to finalize the requested continuance dates at the time of the prehearing conference, but could not do so until thereafter. The parties' attorneys had explained the situation to the Administrative Law Judge Clifford H. Woosley, who conducted the PHC. This is the parties' first continuance request since the Student complaint's filing on April 5, 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 continuance and the declaration of Student's attorney Nelson Chu. OAH has considered all relevant facts and circumstances, including

the parties' collaboration in agreeing upon continued dates. Good cause existing therefore, the request is granted.

All dates are vacated. This matter is set as follows:

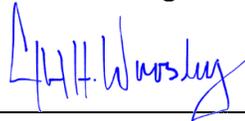
- Mediation: **August 16, 2016** at 9:30 AM, at District offices, at District's offices located at 9700 Las Tunas Ave., Temple City, CA 91780.
- Prehearing Conference: **August 22, 2016 at 10:00 AM.**
- Due Process Hearing: **August 30, 31, September 1, and 8, 2016**, at 9:30 AM the first day, and 9:00 AM each hearing day thereafter, continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall take place at District's offices located at 9700 Las Tunas Ave., Temple City, CA 91780.

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: May 26, 2016

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CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings