

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

POWAY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2016050256

ORDER DENYING STUDENT'S
REQUEST FOR CONTINUANCE,
WITHOUT PREJUDICE

Poway Unified School District filed a due process complaint with the Office of Administrative Hearings on May 5, 2016. On May 10, 2016, Student filed a notice of representation by the Law Offices of Megan Nunez. On May 12, 2016, Student filed a request to continue the dates in this matter, based upon his recent retention of counsel. District has not filed a response to the request. Student's request is denied, without prejudice, for the following reasons.

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. Student's new counsel contacted District's attorneys and requested that they sign a joint stipulation to continue. However, as of May 10, 2016, District had not provided Student with possible new mediation and hearing dates.

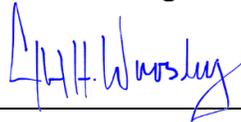
Good cause exists for the continuance. However, Student's request does not identify any dates to which the mediation, prehearing conference, and hearing are to be continued. Therefore, the request is denied so that Student might provide OAH with requested continuance dates.

In the meantime, all prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

DATE: May 18, 2016

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CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings