

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PALOS VERDES PENINSULA UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2016051054

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

On June 21, 2016, Palos Verdes Peninsula Unified School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon unavailability of counsel for the presently scheduled prehearing conference and due process hearing dates.¹ On June 23, 2016, Parent on behalf of Student opposed the request based upon the contention that unavailability of counsel does not constitute good cause for a continuance, or in the alternative, that any good cause for a continuance is outweighed by the prejudice to Student.

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).)

¹ The prehearing conference is presently scheduled for July 1, 2016; the due process hearing is presently scheduled for July 11, 2016. The mediation scheduled for June 21, 2016 did not go forward.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. District established good cause for a two-month continuance due to the unavailability of its legal counsel. Therefore, District's continuance request is:

Granted. All dates are vacated. This matter will be set as follows:

Mediation:	August 9, 2016 at 9:30 AM
Prehearing Conference:	September 2, 2016 at 10:00 AM
Due Process Hearing:	September 13, 2016 at 9:30 AM, September 14 and 15, 2016, at 9:00 AM, 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: June 24, 2016

VERNON BOGY
Administrative Law Judge
Office of Administrative Hearings