

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WEST COVINA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014110745

ORDER GRANTING IN PART
REQUEST FOR CONTINUANCE AND
SETTING PREHEARING
CONFERENCE AND HEARING

On December 23, 2014, West Covina Unified School District filed a request with the Office of Administrative Hearings to continue the dates in this matter based upon the unavailability of District's legal counsel, who is attending a conference and scheduled for hearing in other matters through the beginning of April 2015. On December 23, 2014, Student opposed the request based upon the length of time District requested for its continuance, April 13, 2015, nearly three months after the initial hearing date of January 15, 2015.

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. All dates are vacated. While District established good cause to continue the January 15, 2015 hearing date, it did not establish good cause to continue the hearing until April 13, 2015, based on the unavailability of District's legal counsel. District's legal counsel's unavailability for OAH Case No. 2014110779 does not constitute good cause because the instant matter was filed a week before, and OAH Case No. 2014110779, a District filed case that does not involve any substantive denials of a free appropriate public education. Therefore, this matter will be set as follows:

Prehearing Conference: February 13, 2014, at 10:00 AM
Due Process Hearing: February 23, 2015 at 1:30 PM, February 24 through 26, 2015, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The matter is assigned to ALJ Alexa Hohensee.

IT IS SO ORDERED.

DATE: December 24, 2014

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings