

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HEMET UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015040133

ORDER GRANTING JOINT REQUEST  
FOR CONTINUANCE AND SETTING  
NEW PREHEARING CONFERENCE  
AND DUE PROCESS HEARING  
DATES

On August 12, 2015, Student and the Hemet Unified School District filed a joint request to continue the dates in this matter. This is the first request for continuance requested by either party subsequent to the granting by the Office of Administrative Hearings of Student's motion to amend the complaint.

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).)

Here, the parties have requested a continuance based upon their interim settlement agreement that provides for Student to be assessed by mutually agreeable assessors. Student has not yet been found eligible for special education. The parties believe the assessments will be instrumental in determining Student's eligibility. They ask for a continuance until after the assessments have been completed.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

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

Prehearing Conference: November 9, 2015, at 1:00 p.m.  
Due Process Hearing: November 16-19, 2015, beginning at 1:30 p.m. on  
November 16, 2015, and 9:00 a.m. all other days,  
and continuing day to day, Monday through  
Thursday, as needed at the discretion of the  
Administrative Law Judge.

The parties have not requested another mediation date. Should they desire mediation, they should contact OAH with a proposed date as soon as possible.

IT IS SO ORDERED.

DATE: August 12, 2015

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DARRELL LEPKOWSKY  
Acting Presiding Administrative Law Judge  
Office of Administrative Hearings