

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015050075

ORDER DENYING DISTRICT'S
REQUEST FOR CONTINUANCE
WITHOUT PREJUDICE

On May 11, 2015, District filed a request to continue the dates in this matter, requesting a continuance within ninety days, and advising the Office of Administrative Hearings that the parties could not agree upon dates. The request was not accompanied by a proof of service on Student's counsel. Student did not file a response.

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. District has not provided evidence that it served Student's counsel with the request. District has also offered no evidence that it made any effort to confer with Student's counsel to determine available dates.

Although OAH is inclined to grant the request, because no evidence exists that Student is aware of the request, it is denied without prejudice. District may submit its request providing it establishes that it served Student's counsel with the request, and provides details that it made efforts to obtain mutually agreeable dates.

All previously set dates are confirmed.

IT IS SO ORDERED.

DATE: May 15, 2015

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings