

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CALIFORNIA VIRTUAL ACADEMIES.

OAH Case No. 2015060792

ORDER DENYING REQUEST FOR
CONTINUANCE

On August 28, 2015, Parent on behalf of Student filed with the Office of Administrative Hearings a request to continue the dates in this matter based upon unavailability due to surgery to be performed on one of Parent's children on September 2, 2015. California Virtual Academies did not submit 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. The request is:

- Denied without prejudice. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. Student did not establish good cause for a continuance in this matter as the prehearing conference is scheduled for September 11, 2015, and hearing set to begin to September 21, 2015. Parent did not submit adequate proof that he will not be able to participate at the September 11, 2015

prehearing conference or hearing set for September 21, 2015, based on the surgery to Parent's other child either through a note from the child's doctor or a declaration under penalty of perjury from Parent. Student may resubmit the continuance request with the requested evidence.

IT IS SO ORDERED.

DATE: September 3, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings