

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015080235

ORDER GRANTING REQUEST FOR
CONTINUANCE

On September 4, 2015, Capistrano Unified School District filed a request with the Office of Administrative Hearings to continue the initially set prehearing conference and hearing dates in this matter based upon the unavailability of District's legal counsel. On September 8, 2015, Student filed an opposition based on the length of the continuance request and the contention that District is not presently implementing Student's present individualized educational program.

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. All dates are vacated. District established good cause for a continuance as this is District's first request to continue the initially set prehearing conference and hearing dates, and the requested dates are less than 90 days from the initially

set hearing date. Further, if District is not implementing Student's last agreed upon and implemented educational program, Student may file a motion for stay put. Therefore, this matter will be set as follows:

Prehearing Conference: October 23, 2015, at 3:00 PM¹
Due Process Hearing: November 3, 2015, at 9:30 AM, November 4 and 5, 2015, at 9:00 AM,² and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. Matter is assigned to Administrative Law Judge Paul Kamoroff.

IT IS SO ORDERED.

DATE: September 8, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings

¹ October 26, 2015, is not available for mandatory Administrative Law Judge training.

² Parties may discuss the need for additional hearing dates at the prehearing conference.