

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015080357

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On August 26, 2015, the Office of Administrative Hearings granted the parties' joint request to continue the initially set dates in this matter, and set this matter for mediation on September 17, 2015, prehearing conference on October 12, 2015, and hearing on October 20 – 22, 2015. On September 4, 2015, Student filed a request to continue the dates in this matter based upon the parties reaching an interim agreement that created a temporary placement for Student that is completed shortly before the hearing is to commence. On September 14, 2015, Saddleback Valley Unified School District opposed the request based upon it being premature and that sufficient time existed between the end of the interim agreement and the scheduled hearing dates.

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 mediation, prehearing conference and hearing dates are confirmed and shall proceed as calendared. Student did not establish sufficient good cause at this moment to continue the prehearing conference and hearing dates. However, nothing prevents Student from seeking a continuance at the time of the prehearing conference as it will be better known, if this matter has not settled before then, as to the completion of the interim agreement and whether a continuance is required.

IT IS SO ORDERED.

DATE: September 15, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings