

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BELLFLOWER UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015080402

ORDER DENYING REQUEST FOR
CONTINUANCE AND
RESCHEDULING PREHEARING
CONFERENCE

On September 8, 2015, Bellflower Unified School District filed with the Office of Administrative Hearings a request to continue the initially set dates in this matter and asked that OAH set the hearing dates because District and Student could not agree on hearing dates. On September 9, 2015, Student filed a response that did not oppose the continuance request in principle, but wanted OAH to deny the request so that District and Student could attempt to agree upon continued 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. All hearing dates and timelines shall proceed as calendared. Here, District has requested a continuance of the initially set hearing date, and OAH is

inclined to grant the continuance. However, District did not establish that it attempted to confer with Student regarding new hearing dates as required by OAH. The parties may submit a request to continue after they have agreed upon hearing dates. If the parties are unable to agree on hearing dates, they may jointly request OAH to select dates. As requested by Student, the parties' prehearing conference statements are not due to OAH and each other until noon on September 11, 2015. Further, the prehearing conference is rescheduled to 3:00 p.m., on September 14, 2015, and the matter assigned to Administrative Law Judge Laurie Gorsline.

IT IS SO ORDERED.

DATE: September 9, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings