

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

LYNWOOD UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2015100575

ORDER DENYING JOINT REQUEST
FOR CONTINUANCE

On October 13, 2015, Lynwood Unified School District filed a request for due process hearing, naming Parents on behalf of Student. The Office of Administrative Hearings issued an October 16, 2015 scheduling order, setting mediation for October 28, 2015, prehearing conference for October 30, 2015, and the hearing for November 5, 2015. On October 29, 2015, the parties filed a joint request to continue the hearing. The request is denied, as explained below.

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).)

The parties agreed to four (4) days of hearing, March 21 to March 24, 2016, with a prehearing conference on March 18, 2016. The requested continued hearing is 138 days after the initially assigned hearing date of November 5, 2015. As noted on the OAH joint continuance request form, the parties must pick a date within 90 days of the initial hearing date. If the parties seek a continued hearing date more than 90 days, the parties must explain why an earlier date is not available. In other words, the parties need demonstrate good cause for such a lengthy continuance.

Here, the executed joint request form does not provide any reason for the lengthy continuance request. Therefore, the joint request for a continuance is denied, without prejudice, for a failure to show good cause.

The parties may again request a continuance at the prehearing conference of 1:00 p.m., October 30, 2015. OAH is not likely to grant a continuance of more than four and a half months. Therefore, counsel should discuss hearing continuance dates within or close to 90 days from the initial hearing date.

All dates remain as scheduled.

IT IS SO ORDERED.

DATE: October 29, 2015

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings