

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LEMON GROVE ELEMENTARY
SCHOOL DISTRICT.

OAH Case No. 2015100943

ORDER DENYING REQUEST FOR
CONTINUANCE

On October 28, 2015, Parent, on behalf of Student, filed this due process hearing request against Lemon Grove Elementary School District. On December 9, 2015, the Office of Administrative Hearings granted the parties' joint continuance request, which set the Prehearing Conference for 3:00 p.m., on March 7, 2016, and hearing for March 14 through 16, 2016. On February 24, 2016, Parent, on behalf of Student, filed a second request to continue the dates in this matter with OAH, based upon Parents' realization that she needs an attorney to prosecute this matter. Parents provided a copy of the continuance request on Dr. Olga West at the District, but did not serve a copy of the request on District's legal counsel.

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 prehearing conference and hearing dates are confirmed and shall proceed as calendared. Parent did not establish good cause for a continuance. First, Parent did not serve a copy of the request on District's attorney, nor meet and confer with District's attorney about agreeable continued hearing dates. Further, Parent does not explain why it took her four months to realize that she should retain the assistance of legal counsel. Accordingly, Student did not establish good cause for a continuance.

IT IS SO ORDERED.

DATE: February 29, 2016

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Peter Paul Castillo

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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings