

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ESCONDIDO UNION SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015110109

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On November 10, 2015, Parent filed a request to continue the dates in this matter with the Office of Administrative Hearings. Parent asserts that she has hired an attorney who is not available on the dates currently set for mediation and hearing. On November 12, 2015, Escondido Union School District's attorney filed an opposition to the request, asserting that District does not oppose a continuance of mediation and the hearing but disagrees with the dates proposed by Parent. OAH has not received a notice of representation by counsel for Parent.

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. Here, Student has proposed dates that are not agreeable to District. OAH is inclined to grant the continuance. However, the parties did not discuss mutually agreeable hearing dates as required by OAH. Forms are available on the OAH website that explain the procedure.

The parties may re-submit the 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. The prehearing conference and due process hearing dates shall remain as calendared unless otherwise ordered.

IT IS SO ORDERED.

DATE: November 13, 2015

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings