

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEHACHAPI UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2015120968

ORDER DENYING REQUEST FOR  
CONTINUANCE

On March 18, 2016, Tehachapi Unified School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon the unavailability of its legal counsel for medical reasons. Student did not file a response. OAH previously granted the parties' continuance request on February 4, 2016, which set this matter for prehearing conference on April 18, 2016, and hearing for April 25 – 28, 2016.

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 hearing dates, and OAH is inclined to grant the continuance. However, District did not discuss and confer regarding new hearing dates with Student, as required by OAH. Forms are available on the OAH

website that explain the procedure. Accordingly, District's continuance request is denied without prejudice.

IT IS SO ORDERED.

DATE: March 29, 2016

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*Peter Paul Castillo*  
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PETER PAUL CASTILLO  
Presiding Administrative Law Judge  
Office of Administrative Hearings