

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ANTELOPE VALLEY UNION HIGH  
SCHOOL DISTRICT.

OAH Case No. 2016010357

ORDER DENYING REQUEST FOR  
FURTHER CONTINUANCE/  
RECONSIDERATION, WITHOUT  
PREJUDICE, AND RE-SETTING TIME  
OF PREHEARING CONFERENCE

On February 17, 2016, Student and Antelope Valley Union High School District filed a joint request to continue the dates in this matter with the Office of Administrative Hearings. The parties requested that the hearing be continued to August 2016. One of the reasons such a lengthy continuance was requested, was the pendency of a second, unspecified OAH matter involving District

By Order dated February 17, 2016, OAH granted the continuance but adjusted the August dates that had been requested, finding no good cause for such a lengthy continuance. That Order set the Prehearing conference for May 13, 2016, at 1:00 PM, and the Due Process Hearing for May 23-26, 2016.

On February 24, 2016, District filed a Request for Resolution of Conflicting Hearing Dates, stating the OAH Case Number for the other matter also set on May 23, and again requesting a continuance to August. As discussed below, the request is denied, without prejudice, although the time of day of the Prehearing Conference will be adjusted.

APPLICABLE LAW

The Office of Administrative Hearings will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

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).)

### DISCUSSION

The further facts stated by District, namely the Case Number for the other matter currently pending for hearing on May 23, 2016, do not upon reconsideration warrant the further continuance requested. No good cause has been shown in the current matter for such a lengthy continuance. District's competing obligations do not, without more, warrant the delay of the instant matter. The pendency of multiple matters before OAH by a party, is such a common occurrence that it cannot serve as the basis nor continuances of one or both matters. Moreover, at this juncture it cannot be said with certainty that either or both matters scheduled more than 6 week hence, will actually proceed. Therefore the request is denied and all dates shall remain as scheduled. The time of the Prehearing Conference in this matter will be adjusted to 3:00 PM, so as to not conflict with the PHC in the other pending matter. This ruling, moreover, is without prejudice. At or closer in time to the PHC's of either or both matters, should the conflict in dates still exist, District may re-state the request and it will be considered.

IT IS SO ORDERED.

DATE: February 29, 2016

DocuSigned by:

*June Lehman*

JUNE R. LEHRMAN

Presiding Administrative Law Judge  
Office of Administrative Hearings