

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PLACENTIA-YORBA LINDA UNIFIED
SCHOOL DISTRICT, ORANGE COUNTY
DEPARTMENT OF EDUCATION AND
ORANGE UNIFIED SCHOOL DISTRICT.

OAH Case No. 2016020557

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING DATES

On March 17, 2016, Placentia-Yorba Linda Unified School District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon unavailability of its legal counsel due to prior scheduled hearings and mediations, plus unavailability of its witnesses. On March 21, 2016, Orange Unified School District joined the continuance request. On March 22, 2016, Orange County Office of Education joined the continuance request, based on similar unavailability. Student did not file a response, but the motion of Placentia-Yorba Linda indicates that Student's Parents object to the continuance.

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:

☒ Granted. All dates are vacated. Placentia-Yorba Linda and Orange County established good cause for a continuance of this matter based on the unavailability of their respective legal counsel and witnesses as set forth in attached declarations to their briefs. Further, Student failed to submit a response to show any reason why this matter should not be continued, or continued to the dates requested. Therefore, this matter will be set as follows:

Prehearing Conference: May 27, 2016, at 1:00 PM
Due Process Hearing: June 7, 2016, at 9:30 AM, June 8 through 9, 2016 at 9:00 AM, June 14, 2016, at 9:30 AM, June 15 through 16, 2016 at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. Matter is assigned to Administrative Law Judge Caroline Zuk.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing “good cause” to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: March 23, 2016

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