

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

POWAY UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014051080

ORDER DENYING WITHOUT
PREJUDICE REQUEST FOR
CONTINUANCE

On September 4, 2014, Student filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon Parent's and Student's unavailability due to a family emergency. Poway Unified School District did not oppose the request.

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. All hearing dates and timelines shall proceed as calendared. Here, Student has requested a continuance of the hearing dates, and OAH is inclined to grant the continuance as Student established good cause. However, the parties did not discuss and confer regarding new hearing dates as required by OAH, and OAH is reluctant to grant new hearing dates without knowing from the parties available hearing dates. Forms are available on the OAH website that explain the

procedure. As the parties' Prehearing Conference is set for tomorrow, September 12, 2014, the parties can discuss available hearing dates, and a continuance order can be then granted.

IT IS SO ORDERED.

DATE: September 11, 2014

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings