

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

WESTMINSTER SCHOOL DISTRICT,

OAH Case No. 2014110630

WESTMINSTER SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014080827

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On January 16, 2015, Westminster School District filed with the Office of Administrative Hearings a request to continue the initially set dates in this matter due to Student's December 23, 2014 amended complaint based upon unavailability of District's counsel. On January 20, 2015, Student opposed the request based upon Student's counsel's unavailability as to requested hearing dates of March 3 through 6, 2015.

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, the parties have requested a continuance of the hearing dates, and OAH is inclined to grant the continuance. However, the parties need to discuss further mutually agreeable hearing dates. Trial setting conferences are set only in unusual cases. 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 discuss available dates at the February 4, 2015 mediation or February 9, 2015 Prehearing Conference.

IT IS SO ORDERED.

DATE: January 20, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings