

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

UPLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014100254

ORDER RE: WITHDRAWAL OF
STUDENTS' COUNSEL; GRANTING
REQUEST FOR CONTINUANCE AND
SETTING PREHEARING
CONFERENCE AND HEARING

On February 24, 2015, Student's attorney filed a request to withdraw as counsel of record and motion for reconsideration of the order denying a request for a continuance. The reason given for reconsideration was that following counsel's withdrawal, Student required time to find a new attorney. No opposition was received from District.

First, as to the request to withdraw, no permission from OAH is needed. While it is commendable that Student's attorney sought permission and took steps to minimize any prejudice, no statute or regulation requires OAH permission to withdraw. Accordingly, the withdrawal of Student's counsel is effective immediately, and OAH will not serve any documents on current counsel after this order.

As to reconsideration of the continuance, counsel's withdrawal is a changed circumstance justifying reconsideration. 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. However, no further continuances are contemplated for any reason, including for new counsel to prepare. Granting the continuance provides plenty of time to retain counsel and plenty of time for hearing preparation, particularly given the age of this matter. This matter will be set as follows:

Mediation:	Held.
Prehearing Conference:	April 20, 2015 at 3:00 PM
Due Process Hearing:	April 27-30, 2015 at 1:30 PM first day, 9:00 AM other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: February 24, 2015

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge
Office of Administrative Hearings