

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

OCEANSIDE UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015101074

PARENT ON BEHALF OF STUDENT,

v.

OCEANSIDE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015041216

ORDER GRANTING IN PART
REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING
CONFERENCE, AND DUE PROCESS
HEARING

On November 12, 2015, the parties filed a joint request to continue the dates in this matter with the Office of Administrative Hearings, based upon the unavailability of Parent due to medical issues and then the subsequent unavailability of Oceanside Unified School District's legal counsel.

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 in part. All dates are vacated. While the parties established good cause of the upcoming hearing date of November 24, 2015, due to Parent's medical unavailability, they did not establish good cause for a continuance until the end of March 2015, especially as Student's case has been pending since April 2015, and over a year shall have elapsed if matter goes to hearing by the time a decision is issued. **NO FURTHER CONTINUANCES SHALL BE GRANTED.** Therefore, this matter will be set as follows:

Mediation:	January 5, 2016, at 9:30 AM
Prehearing Conference:	February 22, 2016, at 10:00 AM
Due Process Hearing:	February 29, 2016, at 1:30 PM, March 1 through 3, 2016, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. Matter assigned to Administrative Law Judge Judith Pasewark.

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: November 12, 2015

/s/
PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings