

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ALBERT EINSTEIN ACADEMY OF
LETTERS, ARTS AND SCIENCES -
AGUA DULCE AND ACTON-AGUA
DULCE UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015100666

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On November 17, 2015, Student and Acton-Agua Dulce Unified School District filed a request to continue the initially set dates in this matter with the Office of Administrative Hearings, based upon unavailability of legal counsel. Albert Einstein Academy has not submitted a response.

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. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. Student and Acton-Agua Dulce have agreed to a continuance, but it is not clear from reading Student's complaint and Acton-Agua Dulce's notice of

representation if Albert Einstein, which is a charter school, is its own local educational agency and thus a separate party in this matter, or if Acton-Agua Dulce is the local educational agency for Albert Einstein. If Albert Einstein is a separate local educational agency, Student and Acton-Agua Dulce need to obtain its signature to the continuance request. If Acton-Agua Dulce is the local educational agency for Albert Einstein, Acton-Agua Dulce needs to submit documentation to that fact. Accordingly, Student's and Acton-Agua Dulce's continuance motion is denied without prejudice.

IT IS SO ORDERED.

DATE: November 17, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings