

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ENCINITAS UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015080545

ORDER DENYING REQUEST FOR
CONTINUANCE; RESCHEDULING
PREHEARING CONFERENCE

On November 18, 2015, the parties filed a joint request to continue the dates in this matter with the Office of Administrative Hearings, based upon the parties reaching an agreement in principle and needing additional time to finalize a written agreement. OAH granted the parties' prior continuance request on September 22, 2015, which set this matter for a prehearing conference at 10:00 a.m. on November 20, 2015, and hearing for December 1 through 3, 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. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. The parties did not establish any cause for the requested three month hearing continuance until February 29, 2016, to finalize a settlement

agreement for a case that has been pending since August 12, 2015. The parties provided no explanation why the settlement agreement in principle mentioned in the continuance request cannot be finalized before the December 1, 2015 hearing. Therefore, the parties' request to continue the hearing dates is denied. However, to give the parties additional time to finalize the settlement agreement, the prehearing conference is continued until 3:00 p.m. on November 23, 2015, and the prehearing conference statements need not be submitted until noon on November 20, 2015.

IT IS SO ORDERED.

DATE: November 19, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings