

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015060567

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On December 10, 2015, the parties filed a joint request with the Office of Administrative Hearings, seeking to continue the hearing date in this matter from January 5, 2016 to a nine day hearing to commence on February 17, 2016. The parties delineated the request as an initial continuance and stated no reasons for the request. As discussed below, the motion is denied.

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 matter has been pending since May 19, 2015, and was previously continued on June 24, 2015 to a September 11, 2015 prehearing

conference with hearing dates on September 21, 2015. At the July 16, 2015 mediation, the parties reached an interim agreement, and OAH agreed to further continue the prehearing conference to November 9, 2015, and hearing to November 17 and 18, 2015. On November 6, 2015, OAH granted Student's motion to amend and served upon the parties a new scheduling order. Given the age of the dispute, although the current hearing date was scheduled as a result of Student's amended complaint, this cannot be considered the initial continuance. Further, the parties waited over a month to request a continuance after OAH served the current scheduling order. Finally, the parties do not state any reasons for seeking the continuance, and thus good cause has not been established. Parties may file another continuance request if they can establish good cause for a continuance.

IT IS SO ORDERED.

DATE: December 10, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings