

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL  
DISTRICT AND ALAMEDA COUNTY  
BEHAVIORAL HEALTH CARE  
SERVICES.

OAH CASE NO. 2012040848

ORDER DENYING REQUEST FOR  
CONTINUANCE

On May 23, 2012, Student and the Oakland Unified School District (District) filed a request with the Office of Administrative Hearings (OAH) to continue the initially set dates in this matter. The Student's and District's request for continuance does not indicate that either party contacted the Alameda County Behavioral Health Care Services (ACBHCS) for available dates, and the request for continuance was not served upon ACBHCS.

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 hearing dates and timelines shall proceed as calendared. Here, the Student and the District have requested a continuance of the hearing dates, and OAH is inclined to grant the continuance. However, Student and the District did not discuss and confer regarding new hearing dates with ACBHCS, as required by OAH. Forms are available on the OAH website that explain the procedure. The parties may re-submit the request to continue after they have agreed upon hearing dates. If the parties are unable to agree on hearing dates, they may request OAH to select dates.

IT IS SO ORDERED.

Dated: May 23, 2012

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings