

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012070067

ORDER DENYING REQUEST FOR  
CONTINUANCE

On August 14, 2012, the parties filed a joint request to begin the due process hearing (hearing) on September 4, 2012. The hearing is currently set to begin August 28, 2012, and continue on August 29 and September 4, 2012. Although the parties do not request additional hearing days on September 5, and September 6, 2012, it is the policy of the Office of Administrative Hearings (OAH) to conduct hearings on consecutive days, Monday through Thursday. The request for continuance is based on the medical condition of one of the attorneys for the parties.

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 parties have requested a continuance of the hearing dates, and OAH is inclined to grant the continuance as requested as good cause has been shown. However, the hearing cannot be continued to September 5 and September 6, if not completed on September 4, 2012, due to OAH's current scheduling needs. The parties may re-submit the request to continue once they have agreed upon hearing dates in October or November 2012. If the parties are unable to agree on hearing dates, they may ask OAH to select dates.

IT IS SO ORDERED.

Dated: August 14, 2012

/s/

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REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings