

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WASHINGTON UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2012070092

ORDER DENYING MOTION FOR
CONTINUANCE AND EXTENDING
TIME TO FILE PHC STATEMENTS

This matter is set for hearing beginning on August 30, 2012, with a prehearing conference (PHC) on August 20, 2012. On August 15, 2012, District filed a request to continue the dates in this matter to further settlement negotiations. Student joined in the motion.

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 without prejudice. All hearing dates and timelines shall proceed as calendared. Here, the parties have already obtained one continuance to further settlement negotiations. While OAH is inclined to grant a continuance, good cause has not been shown at this time. The existence of settlement negotiations in and of

itself does not constitute good cause for a continuance under the above legal criteria. It is often the case that settlement negotiations and hearing preparation must proceed simultaneously. In addition, the parties have not provided any explanation for why they may not be able to settle the case within the next two weeks prior to hearing. The parties do not represent that they have reached a settlement or an agreement in principle to date, nor is there a representation that a settlement agreement is circulating. Thus, whether the case may settle remains speculative at this point. The parties may resubmit the motion when good cause is established. In order to support the settlement negotiations, the parties' time within which to file PHC statements is extended until 2:00 p.m. on Friday, August 17, 2012.

IT IS SO ORDERED.

Dated: August 16, 2012

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings