

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ACALANES UNION HIGH SCHOOL  
DISTRICT.

OAH CASE NO. 2013020547

ORDER DENYING REQUEST FOR  
CONTINUANCE

On March 27, 2013, Parent, on behalf of Student, filed a request to continue the dates in this matter. The Office of Administrative Hearings (OAH) did not receive a response from the Acalanes Union High School District (District). OAH granted the requested continuance and set May 22 and May 29, 2013, for the prehearing conference (PHC) and due process hearing respectively.

On April 24, 2013, Parent requested another continuance of the PHC and hearing dates on the ground that an independent educational evaluation (IEE) is necessary before the hearing. The District has not filed a response.

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 for the following reasons: the request does not suggest any dates to which the matter might be continued, or that Parent made any attempt to agree

on any new dates with the District. The length of the continuance Parent seeks is not stated. Parent does not assert that the District has agreed to fund an IEE, or that an IEE is in progress, or that any IEE will be completed by any particular date. Parent merely states that one is necessary, which appears to be part of the substantive dispute between the parties.

The request for continuance is therefore DENIED.

Dated: May 3, 2013

/s/

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CHARLES MARSON  
Administrative Law Judge  
Office of Administrative Hearings