

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PAJARO VALLEY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2013090347

ORDER DENYING REQUEST FOR
CONTINUANCE

Student filed a request for a due process hearing on September 11, 2013, with the Office of Administrative Hearings naming the Pajaro Valley Unified School District (Pajaro Valley). On July 9, 2014, the parties filed a joint request to continue this matter. The request is based upon continued settlement negotiations and Student's potential difficulty in confirming witnesses from a non-public school because the hearing is scheduled to begin during the first week of school. This matter is set to proceed to hearing on August 26, 2014.

APPLICABLE LAW

A due process hearing must be conducted and a decision rendered within 45 days of receiving 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 changes in a case resulting in it not being 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).)

DISCUSSION

The parties assert good cause exists to continue this matter to observe Student in a non-public school that does not commence until August 25, 2014, as part of their ongoing

settlement negotiations. The request goes on to assert that Student's non-public school witnesses are difficult to confirm because the hearing is set to commence during the first week of school. Good cause does not exist to continue this matter.

The request asserts that observing Student is part of on-going settlement discussion and not required for the due process hearing. Additionally, the request indicates that Student's witnesses are "difficult to confirm" not that they are unavailable. Moreover, nearly an entire school year has passed since this matter was filed ten months ago. The Individuals with Disabilities Education Act calls for a speedy resolution to due process complaints. The farther removed from the IDEA's anticipated timelines the more removed from the underlying purpose of the law. In this case, the need to proceed to hearing is outweighed by the reasons given for the request to continue the matter.

ORDER

1. The joint request to continue the matter is denied.
2. All dates to remain on calendar as scheduled.

IT IS SO ORDERED.

DATE: July 10, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings