

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

SAN LEANDRO UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013100539

ORDER DENYING REQUEST FOR
CONTINUANCE

On December 17, 2013, Mother on behalf of Student filed with the Office of Administrative Hearings (OAH) a request to “re-set timelines” in this matter which is treated as a request to continue the current hearing dates. Mother requested that the mediation scheduled for December 19, 2013, be cancelled and re-scheduled to a date after Student’s receipt of the ruling on the expedited matter involving the same parties in OAH case number 2013000168.¹ This matter is currently set for hearing beginning January 21, 2013, with a prehearing conference on January 6, 2013. The current hearing date was selected at the request of the parties pursuant to their initial joint request for continuance on October 31, 2013. This is the second request for continuance in this matter.

On December 17, 2013, the San Leandro Unified School District (District) opposed the request on the grounds that Mother did not identify good cause for continuing this matter. Additionally, the District opposes the continuance absent an agreement that Student may remain in his interim alternative educational setting (IAES), because a further continuance may delay the issuance of a decision until after the expiration of Student’s 45-day IAES authorized in the recent decision on the expedited matter.

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

¹ The expedited decision in OAH Case No. 2013000168 was issued on December 16, 2013.

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. If the parties wish to participate in mediation, there is sufficient time prior to the hearing for them to confer on an agreeable mediation date and submit this request to OAH. Parties are advised to immediately check with the OAH calendar online or with the assigned staff to ensure an available mediation date prior to the hearing. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Dated: December 19, 2013

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings