

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT AND SBE NEW WEST
CHARTER DISTRICT

OAH CASE NO. 2014080702

ORDER DENYING REQUEST FOR
CONTINUANCE, WITHOUT
PREJUDICE

On November 21, 2014, Student filed a request to continue the dates in this matter based upon the hearing calendar of Student's counsel, Mark Woodsmall. This is the second request for continuance. Though not a stipulated request, Student represents that Los Angeles USD does not oppose. Further, Student claims to have tried to contact respondent SBE New West Charter District, but was unsuccessful.

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).)

Student proposes hearing dates of January 26 and 27, January 28 and 29, or February 18 and 19, 2015. Here, OAH is dark throughout the week of January 26, 2015. Therefore, two of the three proposed dates are unavailable. The OAH calendar is available on the OAH website and parties are expected to check the calendar and scheduling guide before proposing continuance dates. Further, neither respondent has filed response to Student's request for continuance. Student's representations in the request are not by way of

declaration and, also, do not demonstrate the level of effort contemplated in seeking mutually agreeable dates.

Therefore, the request for continuance is denied, without prejudice. Student may renew the request for continuance at the prehearing conference

IT IS SO ORDERED.

DATE: November 24, 2014

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings