

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BURBANK UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015020775

ORDER DENYING REQUEST FOR
CONTINUANCE

On March 23, 2015, the parties filed a joint first request to continue the prehearing conference and due process hearing dates in this matter to mutually agreed dates in the near future.

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. All hearing dates and timelines shall proceed as calendared. Here, the parties have requested a first continuance of the hearing dates, and OAH is inclined to grant the continuance. However, the parties requested one partial day for hearing, without a showing of good cause for setting such a short time for a due process hearing involving six issues and two respondents. The parties also requested a prehearing conference three days prior to the hearing, when it is OAH policy to set prehearing conferences seven to ten days prior to the hearing. Forms are available on the OAH website that explain the procedure. Further, the parties requested a prehearing conference at 2:30 PM, when OAH policy is to set prehearing conferences at 10:00 AM, 1:00 PM or 3:00 PM. The Special Education Case Scheduling Guide is also available on the OAH website. The parties may re-submit the request to continue after they have agreed upon at least two consecutive hearing dates, or with a showing of good cause as to why they believe the matter can be fully heard in one afternoon. If the parties are unable to agree on hearing dates, they may request OAH to select dates.

IT IS SO ORDERED.

DATE: March 27, 2015

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings