

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

KERN HIGH SCHOOL DISTRICT.

OAH Case No. 2015041156

ORDER DENYING JOINT REQUEST
FOR CONTINUANCE

On February 8, 2016, the parties filed a joint request to continue the hearing dates in this matter with the Office of Administrative Hearings for 60 days, based upon the parties' desire to complete a global settlement that includes a civil action.

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 prehearing conference and hearing dates are confirmed and shall proceed as calendared. This request was already made by the parties at the prehearing conference and denied by Order Following Prehearing Conference, dated February 5, 2016. This matter has been pending since Student filed his initial complaint on April 29, 2015. Since then, the matter was continued on June 2, 2015, Student filed an amended complaint on July 30, 2015, and continuances were granted on August 27, 2015 and on December 3, 2015. The only reason stated for the current continuance request is the parties' failure to finalize a global settlement including a civil action by Student against District and others, which does not constitute a significant, unanticipated change in the status of this case as a result of which this case will not be ready for hearing.

The February 5, 2016 order also clearly directed the parties that “[g]iven the prior history of continuances in this matter, the parties will need to submit any further request for continuance in writing, supported by sworn declarations.” The joint request is not supported by a sworn declaration or other admissible evidence of circumstances warranting further delay.

The parties failed to establish good cause for a continuance and the joint motion to continue is denied.

IT IS SO ORDERED.

DATE: February 10, 2016

DocuSigned by:



JUNE R. LEHRMAN

Presiding Administrative Law Judge
Office of Administrative Hearings