

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

BONITA UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2016031246

ORDER DENYING REQUEST FOR
CONTINUANCE, WITHOUT
PREJUDICE

On April 8, 2016, Student filed a request to continue the dates in this matter with the Office of Administrative Hearings, requesting time to locate legal counsel, but without specifying how long a continuance was being sought. On April 12, 2016, District opposed. As discussed below, the request is denied without prejudice; Student may resubmit the request with further information; District may respond; and the request will be reconsidered at that time.

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 without prejudice. All hearing dates and timelines shall proceed as calendared, unless and until otherwise ordered. Here, the request for time to locate legal counsel constitutes good cause and OAH is inclined to grant it; however Student did not ask for particular dates, and thus the request is denied without prejudice. Nor did the parties discuss and confer regarding new hearing dates as required by OAH. Forms are available on the OAH website that explain the procedure.

IT IS SO ORDERED.

DATE: April 12, 2016

DocuSigned by:

June Lehrman

JUNE R. LEHRMAN

Presiding Administrative Law Judge
Office of Administrative Hearings