

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2016040127

ORDER DENYING REQUEST FOR
CONTINUANCE

On May 5, 2016, the parties filed a joint first request to continue the dates in this matter with the Office of Administrative Hearings to mutually agreed dates, with a proposed due process hearing date more than 90 days from the initial hearing date. On May 6, 2016, OAH denied the request because the parties did not propose dates within 90 days of the initial hearing date in accordance with OAH guidelines , or provide a showing of good cause for a continuance beyond 90 days. On May 9, 2016, the parties re-submitted their request, seeking the same dates beyond 90 days, and explaining “the above requested dates are the first mutually agreeable dates for both parties and their attorneys. Student’s attorney currently has hearings before OAH calendared throughout the month of August.” The request is again denied for lack of good cause for such a lengthy continuance.

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. The mutual agreement to the requested dates does not constitute good cause for a lengthy continuance. Nor does the pendency of other OAH hearings throughout August suffice, given that at his point, there is no certainty that the other matters will actually proceed; furthermore no information has been provided regarding the other matters or the dates those are calendared. The parties have not established any of the relevant factors: they have not established unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; 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; nor whether trial counsel is actually engaged in another trial. For these reasons the request is denied. Should the parties submit a request for continuance within 90 days of the initial hearing date, in accordance with OAH guidelines, or provide further evidence of good cause, it will be reconsidered.

IT IS SO ORDERED.

DATE: May 10, 2016

DocuSigned by:
June Lehrman

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JUNE R. LEHRMAN
Presiding Administrative Law Judge
Office of Administrative Hearings