

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

COLTON JOINT UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013100305

ORDER DENYING DISTRICT'S  
REQUEST FOR CONTINUANCE

On October 23, 2013, District filed a request for a continuance of more than 90 days. The only reason given was unspecified attorney calendar conflicts. District did not indicate that it attempted to agree to dates with Student's parent.

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 District has requested a continuance of the hearing dates more than 90 days from the original hearing date without any specific demonstration of good cause. It is not plausible that District's attorney is busy and/or unavailable every day between now and January of 2014. More importantly, there is no indication District's attorney attempted to contact Student's parent to ask about mutually agreeable dates. The District may re-submit the request to continue if accompanied by a good cause explanation with details and an indication that Student's parent was contacted. A general claim of unavailability is not good cause, and case numbers should be included if the attorney is claiming unavailability due to trial or hearing.

IT IS SO ORDERED.

Dated: October 25, 2013

/s/

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RICHARD T. BREEN  
Presiding Administrative Law Judge  
Office of Administrative Hearings