

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014010263

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On April 16, 2014, Student's attorney filed a request to move the hearing date in this matter due to a previously scheduled vacation. Student's attorney requests that the hearing date be moved to a date , either one week before or one week after the currently scheduled hearing date, which is June 10, 2014 . No response was received from the Oakland Unified School District.¹ As discussed below, the request is denied.

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).) The Office of Administrative Hearings (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).)

¹ There is no indication on the request, or in a proof of service, that the request was sent to the attorney representing the Oakland Unified School District. Student's attorney is cautioned to serve all other parties on any motions she files with OAH or she may be subject to an Order to Show Cause as to why she should not be sanctioned.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

Denied, without prejudice. Student's attorney did not serve this request for continuance on Oakland Unified School District. Student's attorney is reminded to contact opposing counsel to seek agreement on a request for continuance and to determine mutually agreeable hearing dates, if possible. If no agreement can be reached, a motion for continuance may be filed, but must be served on the opposing party. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

DATE: April 23, 2014

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings