

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN JOSE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014030082

ORDER DENYING REQUEST FOR
CONTINUANCE OF DUE PROCESS
HEARING

On April 15, 2014, Student filed a request to continue the dates in this matter. based upon a perceived conflict in counsel’s calendar and an intention to obtain a new assessment of Student.. On April 16, 2014, the San Jose Unified School District (San Jose) opposed the request based upon the nonexistence of the conflict and the irrelevance of a new assessment.

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 dates are confirmed and shall proceed as calendared. Counsel no longer has a conflict on April 24, 2014, with the due process hearing in *Student v. Oakland Unified School District*, OAH Case No. 2014010263, as that hearing has been reset for June 15, 2014. Parents desire to obtain undescribed “critical information” from a new assessment they are “attempting” to obtain, but that will not

shed significant light on San Jose's past decisions that determined Student ineligible for special education.

IT IS SO ORDERED.

DATE: April 17, 2014

/s/

CHARLES MARSON
Acting Presiding Administrative Law Judge
Office of Administrative Hearings