

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TWIN RIVERS UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014050836

ORDER DENYING REQUEST FOR
CONTINUANCE

On November 7, 2014, the parties filed a joint request for a third continuance of the dates in this matter because “independent educational evaluations [IEE’s] are taking longer to complete than anticipated.” Additionally, the parties indicated the need to schedule an individual education program team meeting for late November or early December to review those evaluations.

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. This matter has been pending since May 2013. On August 18, 2014, a joint request for a continuance was granted to allow the parties time to conduct IEE’s and convene an IEP team meeting by October 31, 2014. In the order granting their request, the ALJ specifically noted that no further continuances would be granted absent a showing of exceptional good cause. In this request, the parties submitted a supplemental brief indicating they were, “forced to reschedule” an IEP team meeting for late November or

early December. The supplemental brief does not indicate when the IEE's will actually be completed.

ORDER

1. The joint request for a continuance is denied.
2. All dates will remain on calendar.

DATE: November 10, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings