

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SOLEDAD ENRICHMENT ACTION
CHARTER SCHOOL.

OAH CASE NO. 2014060899

ORDER DENYING REQUEST FOR
CONTINUANCE

On July 8, 2014, Soledad Enrichment Action Charter School (Charter School) filed an initial request to continue the dates in this matter on the grounds counsel has a conflicting prehearing conference currently set for August 4, 2014 at 1:00 p.m., and a conflicting due process hearing currently set for August 12-14, 2014. No dates for a due process hearing are requested other than a date “after August 14, 2014.” There does not appear to have been any attempt to obtain agreed upon dates from Student as described in OAH Scheduling Order dated June 19, 2014, and no proof of service was attached to the request for 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. All hearing dates and timelines shall proceed as calendared. Here, Charter School has requested a brief continuance, and OAH is inclined to grant a brief initial the continuance. However, Charter School has not suggested appropriate dates and has not attempted to obtain agreed upon dates from Student. Forms are available on the OAH website that explain the procedure. This Order is without prejudice to a joint request for a continuance to agreed dates or to Charter School re-submitting the request for a continuance to particular dates less than ninety days from the initial hearing date after attempting to obtain agreed dates from Student. If the parties are unable to agree on hearing dates, they may request OAH to select dates.

IT IS SO ORDERED.

DATE: July 08, 2014

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings