

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

BONITA UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014090456

ORDER DENYING REQUEST FOR
CONTINUANCE

On September 29, 2014, the parties filed a request to continue all dates, such that the hearing would be delayed for over 90 days. The only reason given for such a lengthy continuance was that “The parties were unable to agree to dates for a four day hearing prior to January 26, 2014.” Notably, the parties have requested the hearing to take place on days that OAH has announced on its website calendar that it is closed for training.

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 prehearing conference and hearing dates are confirmed and shall proceed as calendared. The inability of the parties to agree on dates within a reasonable time is not good cause for such a lengthy continuance. To the contrary, it demonstrates that the hearing should proceed on the dates already set, which are ordered to run continuously, day to day, Monday through Thursday, at the discretion of the hearing ALJ. Further, the parties have requested hearing dates during a week in which OAH has announced it is closed. To the extent the parties would like mediation, it may be requested at the prehearing conference and can be provided on the first day of hearing.

IT IS SO ORDERED.

DATE: September 29, 2014

/s/

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