

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MORENO VALLEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014110054

ORDER DENYING REQUEST FOR
CONTINUANCE

On February 2, 2015, Student filed a request to continue the prehearing conference and due process hearing dates in this matter, as well as a date for a second mediation. Student offered no legal or factual support for the motion, and the motion does not propose any specific continuance dates to which Student requests the matter be continued. The motion, which is in the form of a letter to OAH, states that it was faxed to District, but it did not include a proof of service. District filed no opposition to the motion.

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. First, Student's motion does not contain any good cause to support the motion. Second, the motion contains no proposed dates for a continued

prehearing conference and due process hearing, and does not reflect that Student conferred with District regarding any such continuance dates, as required by OAH. Forms are available on the OAH website that explain the procedure. Indeed, the request does not include so much as a formal proof of service showing service upon District. Finally, except in extraordinary circumstances, OAH does not set matters for second mediations.

Student may re-submit the request to continue the prehearing conference and due process hearing dates so long as the re-submitted request meets the above-stated requirements, and so long as a formal proof of service is attached to the request showing District was properly served with the request. If the parties are unable to agree on hearing dates, they may request OAH to select dates.

IT IS SO ORDERED.

DATE: February 6, 2015

/s/

ELSA H. JONES
Acting Presiding Administrative Law Judge
Office of Administrative Hearings