

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRESNO UNIFIED SCHOOL DISTRICT.

OAH Case No. 2014110130

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On March 20, 2015, the parties filed a joint request to continue the dates in this matter because an agreed-upon independent educational evaluation was not completed in the anticipated time frame. The parties request a continuance to June 2015 to allow them time to hold an individualized education program team meeting to discuss the independent evaluation, and participate in mediation prior to proceeding to hearing. This is the second 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).) The Office of Administrative Hearings 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. This matter has been pending since October 2014. The parties are scheduled for an IEP team meeting on April 13, 2015, to review the results of the pending independent evaluation. While OAH is inclined to grant a short continuance to afford the parties the opportunity to hold this IEP team meeting, the parties have not explained why such a lengthy continuance is required.

IT IS SO ORDERED.

DATE: March 20, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings