

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BERKELEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2015020016

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On March 16, 2015, the parties purported to jointly file a request to continue the dates in this matter. The request was signed by counsel for Parent, and by Lenore Silverman, Esq., representing that she is counsel for Berkeley. However, no notice of representation by counsel has been filed for Berkeley, and there is no signature on the request by any employee of Berkeley.

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 without prejudice. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. The Berkeley Unified School District is unrepresented in this matter until counsel files a notice of representation. OAH is inclined to grant the requested continuance but cannot do so without the signature of

someone from Berkeley, or an attorney who has formally appeared for Berkeley. This order is without prejudice to renewal of the request after counsel has filed a notice of representation.

IT IS SO ORDERED.

DATE: March 16, 2015

/s/

CHARLES MARSON
Acting Presiding Administrative Law Judge
Office of Administrative Hearings