

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2015030906

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING DUE  
PROCESS HEARING

On August 27, 2015, Student filed a request to continue the due process hearing in this matter on the grounds that his counsel was unavailable. On August 28, 2015, the Oakland Unified School District filed an opposition to the request. On August 31, 2015, Student filed a reply.

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:

This matter has had previous continuances. However, OAH has confirmed that Student's counsel is in an ongoing hearing on September 8 and 9, 2015, and set for an expedited hearing on September 10, 14 and 15, 2015. OAH is concerned regarding the

number of conflicts Student's counsel has with her cases, and may undertake an analysis of counsel's calendar with OAH to determine if she is knowingly setting conflicting dates in her cases. However, for purposes of this matter, good cause has been established for another short continuance. Therefore, the request is granted. All currently set dates are vacated. This matter will be set as follows:

Due Process Hearing: September 16 – 17, 2015, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: September 1, 2015

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BOB N. VARMA  
Division Presiding Administrative Law Judge  
Office of Administrative Hearings