

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN RAFAEL CITY SCHOOLS.

OAH Case No. 2015070341

ORDER FOLLOWING PREHEARING
CONFERENCE AND GRANTING
MOTION TO CONTINUE

On August 17, 2015, a telephonic prehearing conference was held before Administrative Law Judge Joy Redmon, Office of Administrative Hearings. Attorney Blanca Cabrales Vaughan appeared on Student's behalf. Attorney Alejandra Leon appeared on San Rafael City School's behalf. The PHC was recorded.

On August 14, 2015, San Rafael filed a motion to continue the due process hearing in this matter due to attorney unavailability. San Rafael's attorney of record, Jan Tomsky, is scheduled for a due process hearing in another matter pending before OAH (Conflicting Case) commencing the same day as the hearing in this case.

Student opposed the motion to continue asserting that another attorney in Ms. Tomsky's firm could litigate the case and that Student is scheduled to graduate in October and this matter needs to proceed expeditiously.

APPLICABLE LAW

A due process hearing must be conducted and a decision rendered within 45 days of receiving notice of the due process complaint 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 proximity to 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

continuance's impact 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).)

DISCUSSION AND ORDER

Good cause was established to continue this case. The Conflicting Case was filed before the hearing in this matter, no prior continuances have been granted in this case, and Ms. Tomsy is the attorney who will appear at hearing in both cases. All prior dates are vacated and the matter will proceed as follows:

Telephonic PHC is scheduled for Friday, October 2, 2015, at 10:00 a.m.

Due process hearing is scheduled for October 14, and 15, 2015, and will continue, day to day, Monday through Thursday, at the discretion of the ALJ.

IT IS SO ORDERED.

DATE: August 17, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings