

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

JEFFERSON UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2015070570

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On October 16, 2015, the parties in this matter filed a joint second request to continue the dates in this matter. Jefferson asserted that one of its primary witnesses is unavailable on the previously scheduled hearing dates due to an unplanned medical leave. The parties also asserted that they have reached an interim agreement requiring additional observation. A prior 90-day continuance was granted in this case on July 28, 2015, wherein the presiding ALJ stated that, “[n]o further continuances will be granted in this mater, absent exceptional good cause.

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 hearing dates and timelines shall proceed as calendared. Here, the parties have requested another lengthy continuance of the hearing dates and have

failed to establish extraordinary good cause to justify another lengthy continuance. OAH may be inclined to grant a shorter continuance to accommodate Ms. Garwin's unavailability. However, the parties failed to state how long her medical leave is expected to last and whether or not she would be available to testify telephonically earlier than February 2016. Accordingly, this motion to continue is denied without prejudice. The parties are on notice, however, that the circumstances proffered do not establish extraordinary good cause for another 90-day continuance of this matter.

IT IS SO ORDERED.

DATE: October 22, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings