

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

UNION ELEMENTARY SCHOOL  
DISTRICT.

OAH Case No. 2015080108

ORDER DENYING REQUEST FOR  
SECOND CONTINUANCE

On January, 22, 2016, the parties filed a joint request for a second 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 July 28, 2015. The parties were granted a continuance on September 11, 2015. The parties asserted in their request to continue that good cause exists because they are unable to secure a mutually agreeable date for a reconvened mediation from December 3, 2015, through March 1, 2016. The parties did not provide any specific information regarding their unavailability. Additionally, District asserts that the week currently calendared for a due process hearing

falls when it is out of session. District further asserts generally that its witnesses will be unavailable. No declaration was submitted establishing that any necessary witnesses will be unavailable, the basis for that unavailability, and on which specific days. Accordingly, the parties have not established good cause for this continuance.

IT IS SO ORDERED.

DATE: January 25, 2016

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JOY REDMON  
Administrative Law Judge  
Office of Administrative Hearings