

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ETIWANDA SCHOOL DISTRICT.

OAH Case No. 2015090504

ORDER DENYING JOINT REQUEST
FOR CONTINUANCE

On September 8, 2015, Student filed a request for due process hearing, naming Etiwanda School District. The Office of Administrative Hearings issued September 15, 2015 order, scheduling the hearing for November 3, 2015. On October 20, 2015, the parties filed a joint request to continue the hearing. The request is denied, as explained below.

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).)

The parties agreed to seven (7) days of hearing starting February 22 and concluding March 2, 2016. The requested continued hearing begins 111 days after the initially assigned hearing date of November 3, 2015. As noted on the OAH joint continuance request form, the parties must pick a date within 90 days of the initial hearing date. If the parties seek a continued hearing date more than 90 days, the parties must explain why an earlier date is not available. In other words, the parties need demonstrate good cause for such a lengthy continuance.

Here, the executed joint request form does not provide any reason for the lengthy continuance request. Therefore, the joint request for a continuance is denied, without prejudice, for a failure to show good cause.

All dates remain as scheduled.

IT IS SO ORDERED.

DATE: October 20, 2015

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings