

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. 2015090788

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On January 26, 2016, the parties filed a joint stipulation and request to continue the dates in this matter with the Office of Administrative Hearings, based upon a recent disruption to Student's placement at a non-public school and a need to locate another placement. This is the second request for a 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).) 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 prehearing conference and hearing dates are confirmed and shall proceed as calendared. The parties have failed to establish good cause for a continuance. This matter has been pending since September 17, 2015. Here, the

parties have requested a further continuance of the hearing date to mid to late April 2016 which would result in a Decision being issued more than eight months after filing, far in excess of the speedy resolution mandated by law. The parties may be able to establish good cause for a short continuance should they provide supporting details such as when Student's placement was disrupted, whether Student is currently receiving special education services, efforts to identify a new placement, when Student is likely to be enrolled in a new placement, and how these facts impact the issues to be litigated in this matter. Should the parties seek to renew their request for a short continuance, they are encouraged to meet and confer regarding new hearing dates.

IT IS SO ORDERED.

DATE: January 26, 2016

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings