

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PLACER UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2015110424

ORDER DENYING REQUEST FOR
CONTINUANCE

On March 11, 2016, the parties filed a joint request to continue the dates in this matter. The parties asked that another mediation date be set on May 25, 2016 to begin at 10:00 a.m., and that the hearing be continued to start on June 20, 2016. The parties request that the hearing be continued because Placer Union High School District made another individualized education program offer in February 2016, and Student’s placement is still being discussed. The parties would like to postpone the hearing “so that all issues can be heard at once.” This matter has been continued once before at the request of the parties to dates selected by the parties. A mediation was set, at the request of the parties for March 10, 2016, which was cancelled on March 9, 2016.

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 hearing dates and timelines shall proceed as calendared. Here, the parties have requested a continuance of the hearing dates, to allow the parties to participate in mediation and OAH is inclined to grant a short continuance. However, OAH is not inclined to grant a continuance to the dates chosen by the parties, as this case has been filed since November 2015. Further, OAH schedules mediations to begin at 9:30 a.m., not 10:00 a.m., as requested by the parties.

The parties should also be aware of the scheduling difficulties caused by late cancellations of mediations for reasons other than settlement or withdrawal of the case, as happened in this case. Finally, OAH is not willing to continue this case so that other issues between the parties could be heard as well, as these other issues are not part of this case at this time. If other issues are contemplated being added to this case through amendment, the motion to amend should be made and dates will be reset accordingly, if the motion is granted.

IT IS SO ORDERED.

DATE: March 11, 2016

DocuSigned by:
Margaret Broussard
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MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings