

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

STOCKTON UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012030596

ORDER DENYING REQUEST FOR  
CONTINUANCE

Student filed the initial complaint in this matter on March 16, 2012. On April 27, 2012, the parties filed a joint request to continue the dates in this matter. The Office of Administrative Hearings (OAH) granted this initial request. During mediation on July 31, 2012, the parties reached an interim agreement and agreed to again continue the hearing dates. The parties agreed to continue the hearing over four and one half months and specifically chose the current hearing dates of December 17 – 20, 2012. On November 19, 2012, the parties filed a joint request for continuance on the OAH continuance form and entitled this a “second request” for 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 (PHC) and hearing dates are confirmed and shall proceed as calendared. The parties contend that this is the second request for continuance. However, this is in effect the third request to continue this matter from the filing of the original complaint. Previously the parties have been given two continuances, including the requested continuance as part of the mediation process and interim agreement. Their currently requested hearing dates for the end of January 2013 would result in a written decision being rendered approximately the beginning of March 2013, nearly one year from the filing of this action. This delay is not acceptable, or in conformity with the speedy resolution mandate of the Individuals with Disabilities Education Act. The parties indicate that an individualized education program (IEP) team meeting is calendared for December 6, 2012, “one day after the current prehearing conference date of December 5, 2012.” The PHC in this matter is actually calendared for December 10, 2012. The parties speculate that they may require a further mediation to assist them in settlement discussions. However, the current hearing schedule, chosen by the parties, allows for an opportunity to complete the IEP team meeting and continue their negotiations. Accordingly, based upon the facts and circumstances of this case as set forth in the pleadings, the parties have failed to establish good cause for such a lengthy continuance and the request to continue is denied.

IT IS SO ORDERED.

Dated: November 20, 2012

/s/

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THERESA RAVANDI  
Administrative Law Judge  
Office of Administrative Hearings