

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

WEST CONTRA COSTA UNIFIED
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013110786

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On January 31, 2014, Mother sent the Office of Administrative Hearings (OAH) a one page fax asking to cancel the hearing scheduled to begin February 4, 2014. The fax indicates that Mother needs more time, an attorney, more help and resources. There are no supporting facts included in the request and there was no proof of service showing that the request was served on the West Contra Costa Unified School District (West Contra Costa). This is presumed to be a request for a continuance. On February 3, 2014, West Contra Costa opposed the request based upon failure to state good cause, failure to address the need for a continuance at the prehearing conference and failure to serve the request on West Contra Costa.

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 (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. In her request, Mother has not established good cause for a continuance because the request did not contain specific facts supporting the request which show good cause exists and because the request was not served on West Contra Costa. Since the hearing is scheduled to start tomorrow, all parties are ordered to appear at the hearing at 10:00 a.m., as scheduled. Should Mother want to renew her request for a continuance, she may do so on the record when the hearing begins. In order to obtain a continuance, Mother will have to show good cause as to why a request for continuance was not made at the prehearing conference and why good cause exists for a continuance at this time. Both parties shall come to the hearing on February 4, 2014, prepared for the hearing to go forward, should any request for continuance be denied.

IT IS SO ORDERED.

Dated: February 3, 2014

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings