

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

REDWOOD CITY SCHOOL DISTRICT.

OAH Case No. 2014040180

ORDER DENYING REQUEST FOR  
CONTINUANCE

On April 28, 2014, the parties filed a joint request to continue the dates in this matter because “the school witness is on vacation until the beginning of September.”

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. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. The parties ask for a continuance of the May 28, 2014 hearing date because an unidentified “school witness” is on vacation until the beginning of September. The Individuals with Disabilities Education Act does not suspend due process hearings during school recesses as the summer recess by itself does not make school personnel

unavailable. Accordingly, the parties reason for a continuance is not persuasive. Further, the vague assertion that an unnamed potential witness may not be available to testify is equally unpersuasive.

IT IS SO ORDERED.

DATE: April 28, 2014

/s/

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MARGARET BROUSSARD  
Administrative Law Judge  
Office of Administrative Hearings