

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014070176

ORDER DENYING REQUEST FOR
CONTINUANCE

On February 20, 2015, the parties filed a joint request to continue the dates in this matter or, in the alternative, that the hearing dates of March 10, 11, and 12, 2015, be vacated. The parties indicated in their motion their belief this matter can be settled prior to the scheduled hearing. This case was filed on June 27, 2014. The Office of Administrative Hearings has granted several continuances and granted a motion to amend the complaint which essentially resulted in an additional continuance. The parties state in their motion that they “agree that good cause exists for a continuance of the due process hearings.”

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. The hearing dates are confirmed and shall proceed as calendared. The parties have not put forth good cause as to why this case should be continued. Simply stating that the parties agree that there is good cause, does not constitute good cause. This matter has been pending for almost eight months. The parties' request that the hearing dates scheduled be vacated for the entire week is denied as well, as there is adequate time prior to the scheduled hearing date for the parties to finalize a settlement, if they so desire.

IT IS SO ORDERED.

DATE: February 23, 2015

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings