

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOWELL JOINT SCHOOL DISTRICT.

OAH CASE NO. 2014070284

ORDER DENYING JOINT REQUEST
FOR CONTINUANCE

On August 13, 2014, the parties filed a joint first request to continue the dates in this matter to mutually agreed dates, with the proposed hearing dates extending more than 90 days beyond the initial hearing date.

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 hearing dates and timelines shall proceed as calendared. The OAH form on which the continuance was requested clearly informs the parties that they must select dates for hearing that are within 90 days of the initial hearing date in the scheduling order, or if the dates for hearing are beyond 90 days, explain why an earlier date is not available. The parties seek a continuance in excess of 90 days, from August 26, 2014 to December 1-14, 2014, without explanation. The proposed mediation and prehearing conference dates are after the date currently set for hearing, which hearing date will remain on calendar. The parties may re-submit the request to continue after they have agreed upon hearing dates within 90 days of the initial hearing date, or accompanied by a showing of good cause for a delay of over 90 days in bringing this matter to hearing.

IT IS SO ORDERED.

DATE: August 13, 2014

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings