

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

UPLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014070454

ORDER DENYING REQUEST FOR
CONTINUANCE

On October 23, 2014, the parties filed a second stipulated request to continue the prehearing conference and the due process hearing dates in this matter. The parties selected hearing dates the week OAH would be closed for training, as indicated on its public calendar, selected Friday as a hearing date when OAH's hearing dates are Monday through Thursday, and provided non-specific representations of other conflicts on counsel's calendar for November and December. No good cause explanation was given for a continuance of over six months after the initial filing of the due process complaint.

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 and hearing dates are confirmed and shall proceed as calendared. Both parties are represented by counsel who appear regularly before OAH in special education matters and who should be familiar with OAH request forms that

provide an explanation of good cause must be given for continuance requests in excess of 90 days. Here, the parties provided no good cause for a continuance of such an extraordinary length. Non-specific, blanket, assertions of counsel's conflicts for two months is not good cause. If the parties have another OAH hearing actually proceeding on the same dates, such specific conflict could be addressed by the ALJ at the pre-hearing conference.

IT IS SO ORDERED.

DATE: October 24, 2014

/s/

SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings