

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DEL MAR UNION SCHOOL DISTRICT.

OAH Case No. 2015080482

ORDER DENYING REQUEST FOR
CONTINUANCE

On August 10, 2015, Parents on behalf of Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Del Mar Union School District. On August 24, 2015, the parties filed a Motion to Advance Due Process Hearing Timeline. On August 25, 2015, OAH granted the parties' request, and advanced the hearing date from October 6, 2015 to September 17, 2015.

On September 9, 2015, the day before the parties were required to serve their exhibits, District filed a request to continue the dates in this matter based upon District's counsel unavailability until December 2015 due to prior commitments in eight due process hearings before OAH. On September 10, 2015, Student opposed District's request for continuance based upon OAH's order granting the parties' joint request to advance 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).)

ORDER

1. District did not establish good cause as to why the hearing should be continued after OAH issued an order advancing the hearing dates at the parties' request. District has more than one counsel of record, Sundee Johnson and Justin Shinnfield, either of whom could be at hearing in this matter. After considering all relevant facts and circumstances, District's request for a continuance is denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared

IT IS SO ORDERED.

DATE: September 14, 2015

/s/

CAROLINE A. ZUK
Administrative Law Judge
Office of Administrative Hearings