

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ACTON-AGUA DULCE UNIFIED
SCHOOL DISTRICT AND ALBERT
EINSTEIN ACADEMY OF LAS-AGUA
DULCE

OAH Case No. 2015100666

ORDER DENYING REQUEST FOR
CONTINUANCE

On February 23, 2016, the parties jointly filed a second request to continue the dates in this matter with the Office of Administrative Hearings. The request did not explain why a second continuance was necessary or based upon good cause.

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. Student filed his complaint on October 14, 2015. On November 17, 2015, the parties filed a first request for continuance requesting hearing dates on April 5 and 6, 2015. OAH granted the request, setting the hearing for March 8, 2016, but found that the parties did not establish good cause for a four-month continuance. OAH advised the parties to find a mutually agreed upon date for mediation and notify OAH. On December 16, 2015, the parties requested a continuance of the mediation originally set for November 18, 2015 to

January 14, 2016, which OAH denied because OAH was unavailable during that week. The parties' current request for continuance, which fails to identify that it is a second continuance request, identifies the "initial mediation date" as January 14, 2016, and the "initial hearing date" as March 8, 2016. The parties request mediation on April 12, 2016, and hearing on April 25-27, 2016, without providing any explanation supporting a finding of good cause for a second continuance of the hearing dates, particularly in consideration of the findings in the November 17, 2015 order granting a continuance.

The parties' request for continuance is denied. All dates currently set are confirmed. Any further requests for continuance shall be accompanied by a declaration establishing good cause.

IT IS SO ORDERED.

DATE: February 25, 2016

DocuSigned by:

Adrienne L. Krikorian

ADRIENNE L. KRIKORIAN

Administrative Law Judge

Office of Administrative Hearings