BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. BURBANK UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018100167 ORDER DENYING JOINT REQUEST TO SCHEDULE MEDIATION AND CONTINUE PREHEARING CONFERENCE AND HEARING

On January 15, 2019, Student filed an amended request for due process hearing with the Office of Administrative Hearings, naming Burbank Unified School District. On January 23, 2019, Student and Burbank filed a joint request to schedule mediation of this matter and continue the prehearing conference and hearing dates. The parties proposed dates for a continued prehearing conference and hearing, but did not propose any dates for mediation.

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. Mediation is favored and constitutes good cause for a continuance. However, as stated on the request form submitted by the parties, all parties must agree to mediation dates, and the parties' request does not propose any agreed-to mediation dates. Therefore, the parties' request is:

☒ Denied. The parties failed to comply with scheduling procedures by agreeing to one or more proposed mediation dates. The parties may re-submit their request with proposed dates for mediation.

.

IT IS SO ORDERED.

DATE: January 24, 2019

DocuSigned by:

ROBERT G. MARTIN
Administrative Law Judge
Office of Administrative Hearings

F77DE57DCC0E437...