BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: TRAVIS UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016071059
PARENT ON BEHALF OF STUDENT, v. TRAVIS UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016071059 ORDER DENYING REQUEST TO ADVANCE HEARING DATES

On July 13, 2016, Student filed a Request for Due Process Hearing naming Travis Unified School District (Student's Case). On August 16, 2016, Travis filed a Request for Due Process Hearing naming Student (District's Case). District's Case was originally set for hearing on September 13, 2016.

On August 19, 2016, Travis filed on behalf of both parties, a stipulated motion to consolidate District's Case with Student's Case and to continue all dates. On August 22, 2016, the Office of Administrative Hearings issued an Order Granting Stipulated Motion to Consolidate and Motion to Continue and calendared the consolidated matter on the dates requested by the parties. The consolidated matter is scheduled for hearing beginning October 25, 2016, with a prehearing conference on October 3, 2016.

On September 13, 2016, Travis filed a Request for Order Resetting Hearing Dates supported by a declaration of counsel and numerous attachments. On September 14, 2016, Travis filed an Amended Request for Order Resetting Hearing Dates.[1] Travis seeks to advance the hearing date to the week of October 4, 2016. Student filed an opposition on September 14, 2016.

[1] It is unclear how the request was amended.

APPLICABLE LAW AND DISCUSSION

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).)

Travis seeks to advance the hearing date three weeks because Student is no longer attending school and Parent has withdrawn consent to implement the full proposed individualized education program offer. Travis argues Parents may be violating compulsory education law and a prior written agreement, and are engaging in bad faith tactics. Travis further argues Student is being harmed, and Travis may be subjected to further special education claims and can no longer wait to establish that its 2016-2017 IEP constitutes an offer of a free appropriate public education. Travis' arguments are not persuasive. Further, Travis fails to provide any legal authority supporting its request to withdraw from a prior stipulation. Travis stipulated to consolidation and to the continued hearing dates. Student is entitled to rely upon that stipulation as granted by OAH on August 22, 2016. Therefore, Travis' request to advance hearing dates is denied.

ORDER

1. Travis' request to advance hearing dates is denied.

2. All dates remain as previously ordered.

DATE: September 22, 2016

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Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings