

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BERKELEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012100327

ORDER DENYING JOINT REQUEST
FOR CONTINUANCE

This case is currently set for hearing on February 5, 2013, with a telephonic prehearing conference (PHC) on January 23, 2013. On January 18, 2013, the parties filed a second joint request for continuance based upon the parties' representation that they had continued mediation to January 24, 2014, and wished to postpone the PHC and hearing dates.

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 dates remain as previously scheduled.¹ OAH has no record of mediation in this matter being continued to January 24, 2013. The parties have not established good cause to continue the PHC and hearing dates.

IT IS SO ORDERED.

Dated: January 18, 2013

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

¹ PHC statements were due January 17, 2013. The parties are admonished to immediately submit their PHC statements.