

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BELLFLOWER UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014031056

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On May 6, 2014, the Bellflower Unified School District (Bellflower) filed a request to continue the dates in this matter based upon its counsel having other appointments during the scheduled hearing date(s). Bellflower's request to continue failed to attach a declaration of unavailability for its counsel. Parent on behalf of Student (Student) opposed the request based upon Student's right to a timely resolution of this matter and Bellflower's failure to cite good cause for a continuance.

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).)

The due process hearing for this matter is set to commence on May 21, 2014, pursuant to a scheduling order of March 28, 2014. Bellflower's request to continue is based upon its counsel having a deposition scheduled for May 21; a meeting scheduled on May 23; an unspecified "dismissal hearing" on May 27; and an unspecified court appearance on May 29, 2014. The foregoing does not constitute good cause to continue this matter.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

DATE: May 08, 2014

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings