

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLOVIS UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2014041202

ORDER GRANTING REQUEST FOR
CONTINUANCE; AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING DATES

On May 9, 2014, Student filed a request to continue the dates for the prehearing conference and hearing in this matter. Clovis Unified School District (Clovis) filed its opposition to the request on May 12, 2014. The Office of Administrative Hearings denied Student's request on May 12, 2014, on the ground that Student's request for continuance was not supported by a declaration as to facts presented in the request.

On May 13, 2014, the attorney for Student filed a new request to continue the prehearing conference and hearing dates. The request included a supporting declaration by Student's attorney, which provided information regarding the attorney's unavailability on the currently set due process hearing date due to calendaring conflicts. On May 14, 2014, Clovis filed its opposition to Student's new request to continue.

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).) The Office of Administrative Hearings 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 request for continuance has been reviewed for good cause and all relevant facts and circumstances have been considered. Good cause is established to continue the dates in this matter as: 1) no previous continuance has been granted in this matter; and 2) the declaration submitted by Student's attorney established that Student's attorney is unavailable to participate in the due process that is currently set to begin on May 20, 2014. Accordingly, Student's request to continue the prehearing conference and hearing dates in this matter is:

☒ Granted. The prehearing conference and due process hearing dates are continued and reset as follows:

Prehearing Conference: August 11, 2014, at 10:00 AM

Due Process Hearing: August 18 -20,¹ and continue day-to-day thereafter, Monday through Thursday, at the discretion of OAH until the hearing is concluded.

IT IS SO ORDERED.

DATE: May 16, 2014

/s/

ADENIYI A. AYOADE
Administrative Law Judge
Office of Administrative Hearings

¹ The hearing shall begin at 9:00 a.m. and end at 5:00 p.m. each day, with the exception of August 18, 2014, when the hearing shall begin at 1:30 p.m., unless otherwise ordered.