

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT AND TOBIN WORLD II.

OAH CASE NO. 2014041135

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

On May 23, 2014, the Oakland Unified School District (Oakland) filed a request to continue the due process hearing in this matter on the grounds of unavailability of a key witness. The request was accompanied by a sworn declaration by the witness as to her unavailability. On May 27, 2014, Student filed an opposition to Oakland's request. Student agreed to a one day continuance, but opposed any further continuance, despite continued unavailability of Oakland's witness. There have been no prior continuances in this matter.

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:

☒ Granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference: September 8, 2014, at 3:00 PM
Due Process Hearing: September 16, 2014, at 9:30 AM, and continuing
day to day, Monday through Thursday, as needed at
the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: May 28, 2014

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings