

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014040776

ORDER DENYING JOINT REQUEST
FOR CONTINUANCE WITHOUT
PREJUDICE

This matter is set for a due process hearing beginning on July 31, 2014, with a telephonic prehearing conference on July 21, 2014. On July 16, 2014, the parties filed a joint request to continue the dates in this matter. No reasons were offered to support this request.

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 hearing dates and timelines shall proceed as calendared. Here, the parties have jointly requested a continuance of the hearing dates, and OAH is inclined to grant the continuance. However, the parties did not provide any information to support cause for a continuance. Student's original complaint was filed on April 15,

2014, and the original scheduling order was issued by OAH on April 17, 2014. While no prior requests for a continuance have been filed or granted, this case has proceeded for three months with litigated motions. On May 30, 2014, OAH granted Student's motion to amend his complaint, and on June 6, 2014, OAH issued a second scheduling order based on the amended complaint. Thus, the present request for a continuance is not in response to the first scheduling order issued by OAH. At this stage of the case, cause should be established for a continuance. In compliance with OAH directives on the form to request a continuance, the parties are required to set forth an explanation to support a showing of good cause for a continuance and have not done so. The request is therefore denied without prejudice.¹

IT IS SO ORDERED.

DATE: July 18, 2014

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

¹ In addition, if the parties refile this motion, it is recommended that they meet and confer regarding hearing dates in October 2014, as earlier dates are generally not available.