

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PAJARO VALLEY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2013090347

ORDER DENYING REQUEST FOR
CONTINUANCE

On July 9, 2014, the parties submitted a joint request to continue the due process hearing in this matter. On July 10, 2014, the Office of Administrative Hearings issued an order denying the request, in part because this case had been pending for nearly ten months. On July 9, 2014, the parties submitted another joint request for continuance. The parties assert good cause exists because Pajaro Valley Unified School District's (Pajaro's) counsel is unavailable due to a conflicting OAH case.

A due process hearing must be conducted and a decision rendered within 45 days of receiving 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 party, counsel, or essential witness unavailability due to death, illness or other excusable circumstances; attorney substitution when it 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. This case was filed in September of 2013. The case creating Pajaro's counsel's conflict was not filed until May 2014. Further, OAH served the scheduling order with the present dates for hearing in May 2014, and the parties waited until

July 9, 2014, to request a continuance. Due to the length of time this case has been pending, good cause is not established for a continuance. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

DATE: August 1, 2014

/s/

JOY REDMON

Administrative Law Judge

Office of Administrative Hearings