

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

BONITA UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014080290

ORDER DENYING STUDENT'S
SECOND REQUEST FOR
CONTINUANCE

On August 5, 2014, Bonita Unified School District (District) filed a request for due process, seeking an order declaring that its most recent offer of placement and services provides Student with a free appropriate public education and that District may implement the offer, asserting that there has not been a signed individualized education program for more than three years. The initial hearing date is September 4, 2014, with a prehearing conference scheduled for August 29, 2014.

On August 22, 2014, Student unilaterally filed a request to continue the dates in this matter. By Order dated August 22, 2014, Administrative Law Judge Adrienne L. Krikorian denied Student's request, without prejudice, stating that Student had not first attempted to obtain a mutually agreeable date for a continuance.

On August 26, 2014, Student filed a second request for a continuance, stating that Parents desired a continuance of 45 to 60 days to enable them to obtain an attorney. Student included a copy of a handwritten letter to District, dated August 25, 201 and received by District on August 26, 2014, requesting that District agree to a continuance of 45 to 60 days.

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 because the District has not agreed to new dates, the Student fails to provide requested continuance dates, and the unilateral request does not demonstrate good cause for a continuance of 60 days.

The telephonic PHC shall take place as scheduled at 10:00 a.m., Friday, August 29, 2014. Student's Parents are to be available to receive a telephone call from the administrative law judge. At that time, during the conference call with District's counsel, Parents may request a continuance. The administrative law judge will then hear argument on the request and make a ruling.

IT IS SO ORDERED.

DATE: August 27, 2014

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings