

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2014071037

ORDER DENYING REQUEST FOR  
CONTINUANCE

On August 25, 2014, the Oakland Unified School District filed a request to continue the dates in this matter on the grounds that its counsel was unavailable due to a conflicting expedited hearing in Office of Administrative Hearings Case No. 2014080302. On August 28, 2014, Student filed an opposition. Shortly thereafter, OAH denied Oakland's request because the expedited portion of OAH Case No. 2014080302 had been resolved and a conflict no longer existed. Subsequent to that Order, Oakland filed a reply to Student's opposition. In the reply Oakland raised a new ground, a potentially conflicting hearing in another matter. As this is a new ground for a continuance request, OAH will treat it as a renewed 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).) 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 prehearing conference and hearing dates are confirmed and shall proceed as calendared. Oakland now contends that its counsel has a conflicting hearing in OAH Case No. 2014020175, which is set to begin hearing on September 2, 2014, and may continue into September 9, 2014, when the hearing in the instant matter is to start. At this time, the hearing in OAH Case No. 2014020175 has not commenced and it is unclear if it will in fact continue into September 9, 2014. Therefore, Oakland's request is premature and is denied. Should OAH Case No. 2014020175 become an actual conflict, Oakland may renew its request.

IT IS SO ORDERED.

DATE: August 28, 2014

/s/

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