

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2014090303

v.

SAN FRANCISCO UNIFIED SCHOOL
DISTRICT,

SAN FRANCISCO UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2014090694

v.

PARENT ON BEHALF OF STUDENT.

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On November 12, 2014, Sheila L. Broгна, attorney for Student, filed a request to continue the dates in this matter on the grounds of unavailability of counsel.¹ On November 12, 2014, the San Francisco Unified School District filed an opposition.

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).) The Office of Administrative Hearings 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

¹ The request was sent via facsimile on November 11, 2014, which as a holiday, therefore, it is deemed filed on November 12, 2014.

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 without prejudice. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. Ms. Brogna asserts that she is unavailable for hearing in this matter as she has a previously planned trip which she cannot cancel. She asserts that the trip was planned some time ago. OAH set the current dates in this matter on October 2, 2014. Ms. Brogna has failed to provide sufficient evidence to establish that her trip was planned prior to the dates in this matter being set, and that it cannot be canceled. Student may refile the request for continuance with sufficient evidence to establish good cause. The request is denied without prejudice.²

IT IS SO ORDERED.

DATE: November 13, 2014

/s/

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

² The parties are encouraged to work collaboratively and not engage in gamesmanship. Here, while San Francisco opposes Student's request for a continuance, it has filed a separate request of its own to ensure at least one day of hearing is continued in order to accommodate an unavailable witness. In response, while Ms. Brogna desires a continuance of her own, she has indicated to San Francisco that she does not agree with accommodating its unavailable witness. While San Francisco's request will be ruled upon separately, it is worth noting that the parties may be better served if they worked collaboratively.