

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. 2014070016

ORDER DENYING REQUEST TO
VACATE DATES AND SET STATUS
CONFERENCE

On November 17, 2014, the parties filed a request to vacate the currently set prehearing conference (PHC) and due process hearing dates, and set a status conference. The parties contend that they have reached a settlement agreement, but admit that they do not have a finalized settlement agreement.

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 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 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. OAH does not vacate PHC and hearing dates unless the parties can ensure that there is a signed settlement agreement, and submit a copy of the signature page as proof. However, the fact that parties may require additional time to finalize settlement documents may be good cause to request a continuance of a PHC or due process hearing. If the parties desire to make such a request, they may file a request to continue. The request to vacate dates and set a status conference is denied.

IT IS SO ORDERED.

DATE: November 17, 2014

/s/

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