

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ELK GROVE UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2015010203

ORDER DENYING REQUEST FOR
CONTINUANCE

On January 22, 2015, Elk Grove Unified School District (Elk Grove) filed an initial motion to continue the dates in this matter because Elk Grove's attorney had a calendar conflict with the date the Office of Administrative Hearings (OAH) set for the initial hearing date in this matter. Student did not file a response to the motion.

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 hearing dates and timelines shall proceed as calendared. Here, Elk Grove has requested a continuance of the initial hearing date of February 3, 2015, in this matter, to February 9 and 10, 2015, because the Attorney for Elk Grove was scheduled to begin a hearing on February 3, 2015 in another matter filed with OAH, OAH Case Number 2014120505. However, on January 29, 2015, the attorney for Elk

Grove filed a request to dismiss OAH Case number 2014120505, and that has occurred. Accordingly, since the attorney for Elk Grove no longer has a calendar conflict for February 3, 2015, the motion to continue the case is denied because there is no showing of good cause. Nothing precludes the parties from filing a joint request to continue this matter, or either party from filing a request to continue this matter, assuming good cause to continue the case can be shown.

IT IS SO ORDERED.

DATE: January 29, 2015

/s/

REBECCA P FREIE
Administrative Law Judge
Office of Administrative Hearings