

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

UPLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014100254

ORDER DENYING REQUEST FOR
CONTINUANCE, BUT GRANTING
ONE DAY CONTINUANCE OF
HEARING

On February 23, 2015, the day before the scheduled hearing, the parties filed a request for a further continuance of approximately 60 days. The reason given was so that parent could consider the terms of a final settlement written settlement agreement, the terms of which parent agrees with in principle.

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. This matter was filed over four months ago, such that the parties have had more than adequate time to negotiate settlement terms. Parent states that she and her attorney agree in principle to the settlement terms, but parent wants time to consider the written agreement. However, under no circumstances would this be good cause for a continuance of 60 days given the age of this case. At most, an additional day is reasonable. Accordingly, the joint request for a continuance is denied. However, a one day continuance is granted to allow parent time to consider the written offer.

The hearing in this matter is continued for one day. The hearing will proceed at 1:30 p.m. on February 25, 2015, unless by close of business on February 24, 2015, Student files a withdrawal or a request to vacate dates and set a status conference. Student is reminded that OAH will not vacate dates and set a status conference without the signature pages of a settlement agreement that disposes of all claims and a date certain for the school board meeting at which the settlement will be considered.

IT IS SO ORDERED.

DATE: February 23, 2015

/s/

RICHARD T. BREEN

Presiding Administrative Law Judge
Office of Administrative Hearings