

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BERKELEY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015030848

ORDER FOLLOWING PREHEARING
CONFERENCE AND GRANTING
JOINT REQUEST FOR
CONTINUANCE

On June 8, 2015, a telephonic prehearing conference was held before Administrative Law Judge Joy Redmon, Office of Administrative Hearings. Mother appeared on Student's behalf. Attorney Jan Tomsy appeared on Berkeley Unified School District's behalf. The PHC was recorded. At the outset of the PHC, the parties made an initial joint request for a continuance in this matter. Mother represented that she and Berkeley's director of special education reached an agreement in principle last Friday and it is expected the matter will be resolved without the need to proceed to hearing.

APPLICABLE LAW

A due process hearing must be conducted and a decision rendered within 45 days of receiving notice of the due process complaint 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 proximity to 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 continuance's impact 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).)

DISCUSSION AND ORDER

This is an initial joint request for a continuance. Accordingly, good cause is established to continue this matter. Should the parties not reach a final agreement resolving all claims, the matter will proceed as follows:

Telephonic PHC is scheduled for Monday, July 13, 2015, at 10:00 a.m.

Due process hearing is scheduled for July 21, 2015, and July 22, 2015.

IT IS SO ORDERED.

DATE: June 8, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings