

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

AVESON SCHOOL OF LEADERS,
AVESON GLOBAL LEADERSHIP
ACADEMY (CHARTER SCHOOL).

OAH Case No. 2015021006

ORDER DENYING MOTION TO
CONTINUE

On July 9, 2015, Aveson School of Leaders and Aveson Global Leadership Academy (collectively Charter School) filed a motion to continue the hearing in this due process proceeding 60 days to September 29, 2015. On July 13, 2015, Student filed 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).) 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).)

Charter School's motion contends that the current hearing date of July 28, 2015, which was set by OAH after Student filed an amended due process hearing request, occurs when Charter School's sites are closed. Charter School asserts that it would be burdensome during summer break to arrange the appearance of the 14 persons on Student's witness list who are current or former employees of Charter School. Student's opposition contends that witnesses can be subpoenaed by Charter School.

Charter School's motion is not supported by a sworn declaration or other admissible evidence of witness unavailability. Therefore, Charter School fails to establish good cause for a continuance and its motion to continue is denied.

IT IS SO ORDERED.

DATE: July 13, 2015

/s/

ALEXA J. HOHENSEE

Administrative Law Judge

Office of Administrative Hearings