

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HORIZON CHARTER SCHOOL AND
ELK GROVE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015041114

ORDER DENYING REQUEST FOR
CONTINUANCE

On July 13, 2015, Student and Elk Grove Unified School District filed a “Joint Stipulation to Continue Hearing Dates”, which the Office of Administrative Hearings is considering a request to continue. This “joint stipulation” did not, however, include agreement from Horizon Charter School, a party to this matter and Horizon was not included in the proof of service.

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, two of the three parties have requested a continuance of the hearing dates, and OAH is inclined to grant the continuance. However, all parties need to join in a joint request to continue. If all parties are not willing to join, then a motion to continue must be filed and time will be given for all parties to respond.

IT IS SO ORDERED.

DATE: July 14, 2015

/s/

MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings