

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

ENCINITAS UNION SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012020128

ORDER GRANTING REQUEST FOR  
CONTINUANCE OF PHC; DENYING  
REQUEST FOR CONTINUANCE OF  
DUE PROCESS HEARING

On June 4, 2012, Parent on behalf of Student (Student), filed a request to continue the hearing dates in this matter, based upon Student's unavailability to attend the Prehearing Conference (PHC). The Encinitas Union School District (District) timely filed an opposition to Student's request to continue the due process hearing.

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).) The Office of Administrative Hearings (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).)

Here, the PHC was originally scheduled for June 4, 2012, at 10:00 a.m., and was moved by OAH to 1:30 p.m. of the same date. While Student had taken steps to be available for the originally scheduled 10:00 a.m. PHC, he was unavailable for the rescheduled 1:30 p.m. PHC due to a scheduling conflict.

In Student's motion to continue, he also requests a continuance for the due process hearing. However, Student states that he is available for the due process hearing as presently

scheduled. As such, no cause has been shown which supports a continuance of the due process hearing.

Accordingly, OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request as to the PHC continuance is granted. All other dates shall proceed as calendared. This matter will be set as follows:

Prehearing Conference: June 6, 2012 at 10:00 a.m.

Due Process Hearing: June 13 and 14, 2012. The hearing shall begin at 9:00 a.m. and end at 5:00 p.m., with the exception of the first day of hearing, on which day the hearing shall begin at 9:30 a.m.

IT IS SO ORDERED.

Dated: June 04, 2012

/s/

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PAUL H KAMOROFF  
Administrative Law Judge  
Office of Administrative Hearings