

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012030202

ORDER DENYING THIRD REQUEST  
FOR CONTINUANCE

On September 24, 2012, the parties filed a third request for a continuance of an approximately 60 days. As discussed below, the continuance is denied because good cause has not been shown given the age of this matter.

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 prehearing conference and hearing dates are confirmed and shall proceed as calendared.

The reason the parties give for the third continuance is that they had entered an interim agreement for District to conduct assessments and hold an IEP, however, Student disagrees with District's assessments and District intends to fund an IEE. The fact that the parties are again having a dispute and want to conduct more assessments is not good cause to continue a matter that has been on file for over six months that alleges denials of FAPE going back to spring of 2010. Student is presumed to have been prepared to proceed to

hearing at the time of filing. Nothing about current assessments or IEP's is particularly relevant to whether District denied Student a FAPE beginning in March of 2010, as alleged in the complaint. Rather than demonstrate good cause, the fact that the parties could not settle for over six months and are now again in a dispute demonstrates that further time for settlement discussions is not warranted. Good cause has not been shown for any further continuances.

IT IS SO ORDERED.

Dated: September 24, 2012

/s/

---

RICHARD T. BREEN  
Presiding Administrative Law Judge  
Office of Administrative Hearings