

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

IRVINE UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2012030516

ORDER DENYING REQUEST FOR
CONTINUANCE

On June 1, 2012, Parents on behalf of Student (Student) filed a request to continue the dates the Prehearing Conference (PHC) and the Due Process Hearing (DPH) in this matter based upon unavailability of Student's mother to attend the DPH.

On April 2, 2012, the parties jointly requested a continuance, which OAH granted on April 3, 2012 scheduling the DPH for May 30, 2012. On May 16, 2012, the parties jointly requested a continuance of the PHC and DPH, and that the DPH be scheduled for June 12, 2012, on grounds of parent unavailability. OAH granted the continuance request on May 16, 2012.

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, the parties have requested a continuance of the hearing dates on two prior occasions, the most recent continuance was granted because of the unavailability of parent. The parties jointly agreed to these dates. Student has failed to demonstrate good cause.

IT IS SO ORDERED.

Dated: June 01, 2012

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings