

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

REDLANDS UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012050091

ORDER DENYING REQUEST FOR
CONTINUANCE

On May 14, 2012, the parties filed a stipulated request to continue all dates. The parties did not provide exact, agreed-upon dates, but requested a schedule of OAH-selected dates that would result in the matter going to hearing in October. No good cause explanation was given for a continuance of such an extraordinary length.

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. Both parties are represented by counsel who appear regularly before OAH in special education matters and who should be familiar with OAH request forms that provide an explanation of good cause must be given for continuance requests in excess of 90 days. Here, the parties provided no good cause reason for a continuance of such an extraordinary length. Blanket assertions of the unavailability of District personnel in the

summer are not good cause, given that the IDEA does not provide that due process hearings are suspended during school breaks and that witnesses may be subject to subpoena if necessary.

IT IS SO ORDERED.

Dated: May 15, 2012

/s/

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