

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

TORRANCE UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013040036

ORDER DENYING REQUEST FOR  
CONTINUANCE

On May 30, 2013, Torrance Unified School District (District) filed a request to continue the dates in this matter, on the basis that (i) District has been unable to mediate with Student's parents (Parents) and (ii) District is on summer recess on the dates currently scheduled for 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).) 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, without prejudice. All hearing dates and timelines shall proceed as calendared.

District has requested a second continuance of the mediation, prehearing conference (PHC), and hearing dates. District's counsel's declaration states that (i) Parents were unable to mediate on May 8, 2013, and have not confirmed availability for one proposed alternative date, and (ii) District is on summer recess from June 20 through September 3, 2013. With respect to continuance of the mediation date, OAH is inclined to grant the continuance. However, the parties did not discuss and confer regarding a mutually agreeable mediation date, and Parents were unable to attend the previous date unilaterally chosen by District. District may re-submit the request to continue after the parties have agreed upon a new mediation date. If the parties are unable to agree on a mediation date after reasonable attempts, they may request OAH to select dates.

OAH granted District's previous request to continue the hearing to July 2-3, 2013, dates selected by District, to accommodate District's counsel. This second unilateral request seeks new dates of September 24-24, 2013, asserting that District is on summer recess from June 20 through September 3, 2013. The hearing in this matter was scheduled on July 2-3, 2013 at the express request of District, and a school calendar showing the dates of summer recess does not establish that District is unable to proceed on the single narrow issue presented in this case on the dates previously scheduled at District's request. District apparently has staff knowledgeable concerning this matter available during its summer break, as District is seeking to mediate during that break, and previously sought hearing dates during that break. District has also failed to submit evidence that the parties have met and conferred regarding mutually agreeable new hearing dates. On this showing, District has failed to establish good cause for continuance of the hearing dates, and the request to continue hearing dates is denied without prejudice.

IT IS SO ORDERED.

Dated: June 05, 2013

/s/

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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings