

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013040336

ORDER DENYING DISTRICT'S
REQUEST FOR A CONTINUANCE

On May 15, 2013, the District filed a "Request to Reschedule" all dates in this matter. The request represented that the dates requested had been coordinated with Student's attorney. All of the requested dates and times requested were inconsistent with OAH scheduling practices.

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. Under OAH's long-standing scheduling guide that is available on its website, mediations are only scheduled Tuesday through Thursday, and PHC's are only scheduled on Mondays or Wednesdays at 10:00 AM or 1:30 PM. OAH's scheduling orders expressly state the expectation that hearings will continue day to day, Monday through Thursday if not completed as scheduled. Here, despite both parties being represented by experienced special education attorneys who should be familiar with OAH scheduling, the parties are seeking dates and times inconsistent with the above. The convenience of counsel is not a reason to deviate from the above scheduling practices, and OAH will not schedule a month-long gap in a hearing for that reason. The request is denied without prejudice to the parties seeking a continuance at the PHC to dates and times consistent with OAH scheduling practices.

IT IS SO ORDERED.

Dated: May 16, 2013

/s/

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