

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT(S) ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013090293

ORDER GRANTING DISTRICT'S
REQUEST FOR CONTINUANCE AND
SETTING
MEDIATION/PHC/HEARING

On October 25, 2013, District filed a request to briefly continue all dates on the ground of District and attorney unavailability. Student opposed with the exception of mediation on the ground that Student's attorney had a conflict with the requested hearing dates, that the matter had been delayed already by District's NOI, and because Student's parent would be prejudiced by the delay.

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:

Granted. All dates are vacated. Student's opposition was unsupported by the facts. Student's attorney has already filed a withdrawal from representation in OAH case number 2013071304, the matter he claims conflicts with District's requested hearing date. Further, any delay because of the NOI was attributable to Student's counsel, not District. Finally, District's request is for a brief period of time, such that no prejudice could be said to arise, particularly when compensatory remedies are available. This matter will be set as follows:

Mediation:	November 6, 2013 at 9:30 AM
Prehearing Conference:	December 2, 2013 at 1:00 PM
Due Process Hearing:	December 16-19, 2013 at 1:30 PM first day, 9:30 AM other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: October 31, 2013

/s/

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