

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ANTELOPE VALLEY UNION HIGH
SCHOOL DISTRICT.

OAH CASE NO. 2012030347

ORDER DENYING REQUEST FOR
CONTINUANCE

On August 29, 2012, the parties filed a stipulated second request for a continuance that would result in a hearing in mid-November. The reason given was that for unspecified “personal reasons” Student did not complete District assessments over the summer that had been contemplated as part of settlement efforts.

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. When the first continuance was granted on April 17, 2012, the parties were expressly advised that further continuances were not contemplated given the extraordinary length of the first continuance and the fact that the parties would have ample time for additional assessments and settlement discussion. Student's assertion of unspecified "personal reasons" during the summer is not a good cause explanation for why the hearing should be further postponed given the amount of time of the first continuance. Moreover, the contemplated assessments and IEP team meeting are not directly relevant to the issues in the complaint, which allege various substantive and procedural violations of IDEA that go back to March of 2010.

IT IS SO ORDERED.

Dated: August 29, 2012

/s/

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