

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NOS. 2012060342 and
2012040530

ORDER DENYING SECOND
REQUEST FOR CONTINUANCE

On August 24, 2012, the undersigned Administrative Law Judge from the Office of Administrative Hearings (OAH) issued an order denying Student's request to continue the presently scheduled hearing dates in these consolidated cases: a prehearing conference set for September 5, 2012, and a due process hearing that will proceed from day-to-day until completed starting September 11, 2012.

On August 28, 2012, counsel for Student filed with OAH a Second Request for Continuance for First Continuance of Initial Special Education Due Process Hearing Date. On August 30, 2012, counsel for the Garden Grove Unified School District filed with OAH a response to this request in the form of an opposition, or, in the alternative, a request to bifurcate for hearing the consolidated cases.

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).)

Here, Student seeks a continuance of the due process hearing in the consolidated matters to December 5, 2012, based upon conflicting dates from other OAH administrative and federal court matters. However, with the exception of a hearing for a motion in a federal court case on September 17, 2012, the conflicting dates do not prevent Student's counsel from participating in a due process hearing for the consolidated cases during the weeks of September 11 and 17, 2012. The District filed its initial complaint (OAH Case No. 2012040530) in April 2012, and Student filed his complaint (OAH Case No. 2012060342) in June 2012. Both federal and state law mandate the timely resolution of special education disputes in order to provide clarity in the educational programs for disabled pupils. Student's request for a continuance until December of this year is at odds with this mandate. For the foregoing reasons, Student's second request for continuance does not set forth good cause, and is denied.

IT IS SO ORDERED.

Dated: August 31, 2012

/s/

TIM NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings