

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LAKESIDE UNION SCHOOL DISTRICT.

OAH CASE NOS. 2012071004 and  
2012050216

ORDER DENYING REQUEST FOR  
CONTINUANCE

On October 24, 2012, Parent on behalf of Student (Student) filed a request to continue the dates in this matter. On October 26, 2012, the Lakeside Union School District (District) filed an opposition.

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 argues that a continuance should be granted because she has recently obtained an Independent Educational Evaluation (IEE) and that at an Individualized Education Program (IEP) meeting is scheduled to review the IEE. Student further contends that the results of the IEE, and IEP to review the IEE, may impact Student's educational program.

The District argues a continuance should be denied because there have been five prior continuances for this matter, that Student mutually agreed to the present hearing dates, and that the pending IEP meeting is unlikely to resolve this matter.

Student's contention that an upcoming IEP meeting may settle issues is speculative and not persuasive to show good cause in light of the District's belief that resolution is unlikely. Student's argument also fails to explain how an upcoming IEP meeting will resolve the allegations contained in this matter, which stem from a January 11, 2012 IEP meeting.

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.

IT IS SO ORDERED.

Dated: October 26, 2012

/s/

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TIMOTHY L. NEWLOVE  
Presiding Administrative Law Judge  
Office of Administrative Hearings