

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012090763

ORDER DENYING FOURTH
REQUEST FOR CONTINUANCE

On April 4, 2013, Student filed a fourth request for a continuance, asserting that a further continuance was required to resolve document production issues with District. Student's third continuance request had been granted with an order that any remaining document production issues were to be raised by way of prehearing motion and not by motion to dismiss and that the matter would proceed as scheduled given the ample continuances Student has been afforded to date.

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. Student makes no showing why, if documents were first requested in June of 2012, Student did not pursue a compliance complaint with the California Department of Education if the response was inadequate, why Student filed a request for due process hearing if Student was not ready to proceed to hearing within IDEA's 45-day timeline, and why, after a due process hearing request was on file, Student did not seek production of documents under the subpoena process available in IDEA hearings prior to the prehearing conference, even though the third continuance was granted with the admonition to Student to seek documents through prehearing motions if necessary. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Dated: April 09, 2013

/s/

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