

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HERMOSA BEACH CITY ELEMENTARY
SCHOOL DISTRICT.

OAH CASE NO. 2013090477

ORDER GRANTING SECOND
REQUEST FOR CONTINUANCE [NO
FURTHER] AND SETTING
PREHEARING CONFERENCE AND
HEARING

On January 27, 2014, the parties requested a second continuance on the ground that the hearing is scheduled on dates when District is closed. The first continuance was granted to dates stipulated by the parties, such that District should have been aware of its own unavailability on the requested dates. The current request seeks an additional 90 days, despite District only being unavailable for one week in February.

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. However, no further continuances will be considered for any reason. District should have been aware at the time of the first continuance that it was not available on the requested dates. OAH will give the parties the benefit of the doubt that this was an honest mistake and that the new dates requested are based on availability of counsel and witnesses. District and its counsel are advised that any future stipulation to dates in a continuance request must be made to actually available dates, and that failure to do so may result in denial of the request or monetary sanctions. This matter will be set as follows:

Mediation:	N/A
Prehearing Conference:	May 16, 2014 at 1:00 PM
Due Process Hearing:	May 20-22, 2014 at 9:30 AM first day, 9:00 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: January 27, 2014

/s/

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