

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014010581

ORDER GRANTING REQUEST FOR
CONTINUANCE OF MEDIATION
DATE, AND DENYING REQUEST
FOR CONTINUANCE OF OTHER
DATES WITHOUT PREJUDICE

On February 11, 2014, Torrance Unified School District (District) filed a request to continue the mediation, prehearing conference, and due process hearing dates in the matter. District requested to continue the mediation date based upon the inability of the District's special education director to attend the mediation that is currently scheduled for February 19, 2014. District's request to continue the prehearing conference and due process hearing dates to September 2014 is based upon a scheduling conflict District's counsel has on March 11, 2014, the date currently scheduled for hearing in this matter.

On February 11, 2014, Student filed opposition to the motion, on the grounds that there was no good cause to continue the matter, and he would be prejudiced if a continuance were granted to September. In the event OAH found good cause to continue, however, Student suggested that the mediation be held on March 13, 2014, and the due process hearing be held on March 25-27, 2014.

On February 12, 2014, District filed a reply to the Student's opposition, asserting that District's counsel had a scheduling conflict on March 25-27, 2014.

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 as to the mediation date. The mediation date is vacated due to the unavailability of the District's special education director. The parties may select another mediation date that conforms to OAH's rules regarding when mediations are held. They are to timely notify OAH of the date they have selected.

Denied without prejudice as to the prehearing conference and due process hearing dates. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. District has demonstrated no good cause to support its request for a continuance to September, 2014. Student will be prejudiced by such a long delay. OAH was inclined to grant a *brief* continuance to the dates of March 25-27, 2014, as suggested by Student's counsel, but District's counsel contends that she is unavailable on those dates. OAH only sets trial setting conferences in unusual cases, and this case is not such a case. District may re-submit a request for a *brief* continuance, after consulting with Student's counsel and attempting, in good faith, to agree regarding possible dates for such a continuance. Further, as part of this process, it is strongly recommended that District's counsel make a good faith attempt to resolve her calendar conflicts.

IT IS SO ORDERED.

DATE: February 12, 2014

ELSA H. JONES
Administrative Law Judge
Office of Administrative Hearings