

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ALHAMBRA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014020549

ORDER DENYING REQUESTS FOR
CONTINUANCE

On February 27, 2014, the parties filed a joint request to move the mediation from March 20, 2014 to March 7, 2014. On March 3, 2014, the parties filed a joint request to continue the mediation from March 20, 2014 to April 24, 2014, a date after the currently scheduled prehearing conference and hearing. Neither request sought to continue the hearing and prehearing conference to mutually agreed dates.

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. All hearing dates and timelines shall proceed as calendared. Here, the parties have filed inconsistent requests that seek to move the mediation date only to a date beyond the established prehearing conference and hearing date. OAH does not take matters “off calendar.” In other words, under no circumstances would OAH continue mediation beyond the existing hearing dates without establishing a new hearing date. Trial setting conferences are only set in unusual cases, and counsel’s misunderstanding of OAH procedure is not one of them. The parties may re-submit the request to continue after they have agreed upon prehearing conference and hearing dates in addition to a new mediation date. If the parties are unable to agree on hearing dates, they may request OAH to select dates, and there is a box provided on the form used by the parties for this option.

IT IS SO ORDERED.

DATE: March 03, 2014

/s/

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