

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

LOS ALAMITOS UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014030734

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE TO RAISING IT AT THE
PREHEARING CONFERENCE

On March 26, 2014, Student filed a request to continue all dates for approximately 90 days on the ground that the existing dates had not been mutually agreed to and that Student's parent wanted additional time to prepare for mediation and hearing. No response was received from District.

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, Student has requested a first continuance of the mediation and hearing dates to dates in the summer, and OAH is inclined to grant the continuance. However, the request did not demonstrate that the parties attempted to mutually agree to dates as required by OAH. Forms are available on the OAH website that explain the procedure. Accordingly, at the telephonic prehearing conference, the parties should be prepared to discuss mutually agreeable dates for mediation and hearing. If the parties are able to agree to dates in advance of the prehearing conference, they may submit a stipulated request for continuance.

IT IS SO ORDERED.

DATE: April 02, 2014

/s/

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