

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. 2014041096

ORDER DENYING REQUEST FOR
CONTINUANCE AND CONFIRMING
DATES

On August 7, 2014, the parties jointly filed a third request to continue the dates in this matter. The complaint was filed on April 23, 2014. A first joint request for continuance was denied on May 14, 2014 on the ground that the parties were seeking hearing dates at the end of October 2014 without a showing of good cause for such a long continuance. The parties jointly filed a second request for continuance on June 9, 2014, seeking a continuance of mediation to August 7, 2014, and the initial hearing date to September 9-11, 2014, which was granted. The parties filed a third joint request for a continuance on August 6, 2014 seeking a continuance of the hearing to October 7-9, 2014, arguing that 1) the parties were unavailable to mediate on August 7, 2014, the date they selected in their June 9, 2014 request; 2) the parties were not available to mediate before August 25, 2014; and 3) District's counsel was scheduled to go to hearing on other OAH matters in late August and during the latter part of the month of September.

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. The parties have not shown good cause why this matter cannot proceed to hearing as scheduled. District's counsel's future schedule of OAH hearings is not a basis for continuing the hearing because those matters have not yet started hearing. If the parties cannot find a mutually agreeable date for mediation before the first day of hearing, the parties may request at the prehearing conference that the first day of hearing go dark so that a mediation may be held instead of the hearing on that day. All hearing dates are confirmed.

IT IS SO ORDERED.

DATE: August 7, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings