

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

ENCINITAS UNION SCHOOL DISTRICT.

OAH Case No. 2014090122

ORDER DENYING REQUEST FOR
CONTINUANCE OF PREHEARING
CONFERENCE; ORDER GRANTING
EXTENSION OF TIME TO FILE
PREHEARING CONFERENCE
STATEMENTS

On November 19, 2014, the Encinitas Union School District filed a request to continue the telephonic prehearing conference in this matter because the parties are very close to settlement. The parties do not wish to incur the time and expense of filing PHC statements. The PHC is currently set for Monday, November 24, 2014, at 3:00 p.m. The hearing is set to begin on December 2, 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 for a continuance of the PHC is denied. The PHC will go forward as set on November 24, 2014. However, the parties are granted an extension of time to file their PHC statements until noon on Friday, November 21, 2014.

IT IS SO ORDERED.

DATE: November 19, 2014

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings