

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

HUNTINGTON BEACH UNION HIGH
SCHOOL DISTRICT,

OAH Case No. 2014090268

HUNTINGTON BEACH UNION HIGH
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014090535

ORDER DENYING STUDENT'S
REQUEST FOR CONTINUANCE

On February 24, 2015, Student filed with the Office of Administrative Hearings a request to continue the dates in this matter based upon counsel having two conflict on her schedule. On February 26, 2015, Huntington Beach filed an opposition to the request based upon unreasonable delay.

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 as good cause has not been established.

Student originally filed this matter on September 3, 2014. Huntington Beach filed their complaint on September 11, 2014. The two cases were consolidated by OAH on September 22, 2014. The matter was continued on October 8, 2014, pursuant to a joint request. On January 6, 2015, Student filed a motion for leave to file an amended complaint. OAH granted that request and issued a new scheduling order on January 9, 2015. Thus, this matter has been pending over four months.

Student cites that his counsel is also scheduled for two expedited hearings on March 10 and 12, 2015. Student requests that the matter be continued and that OAH order the parties to meet to agree on a new hearing date within 90 days. As stated above, OAH looks to if see there are other available means to address the problem.

The hearing in this matter is scheduled to commence on March 5, 2015. Should either or both of the expedited hearings go forth, such conflicts can be resolved during the hearing.

Student's request to continue the Prehearing Conference and Due Process Hearing is denied.

IT IS SO ORDERED.

DATE: February 26, 2015

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings