

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015030840

ORDER DENYING STUDENT'S
REQUEST FOR CONTINUANCE

Saddleback Valley Unified School district filed this matter on March 18, 2015, and the matter was scheduled for mediation on April 2, 2015, a telephonic prehearing conference on April 10, 2015, and hearing on April 13, 2015. On March 26, 2015, District cancelled the April 2, 2015 mediation, explaining to Office of Administrative Hearings staff that Student and District were working together to select a new mediation date.

Also on March 26, 2015, Student filed a request for continuance of the mediation, PHC and hearing dates in this matter, using OAH's form for continuance requests (form OAH 80). The form states that it is to be used "only when the parties mutually agree to extend the initial dates that were identified in the scheduling order," and the form must be signed by all parties. The form allows the parties to jointly submit proposed dates agreed-to by the parties; or, if the parties cannot agree to dates, they may request that OAH select PHC and hearing dates.

In this matter, Student's request for continuance was not signed by District, and did not include a request that OAH select new dates for the PHC and hearing. Instead, Student alone requested a continuance of mediation to April 13, 2015, PHC to May 15, 2015, and hearing to May 25, 2015. On March 27, 2015, District filed a response to Student's request for a continuance, stating that District did not oppose a continuance in principal, but opposed a May 25, 2015 hearing date because that day falls on the Memorial Day holiday. District stated that it had previously proposed April 26, 2015 for mediation, and May 19-21 for hearing, and would work with Student to develop mutually-agreeable 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, Student has requested a continuance of the hearing dates, and District's response states that District does not oppose a continuance in principle. OAH is inclined to grant a continuance, but the parties neither selected mutually-agreeable PHC and hearing dates, nor requested that OAH select the dates. The parties may re-submit the request to continue after they have agreed upon hearing dates. If the parties are unable to agree on hearing dates, they may request OAH to select dates.

IT IS SO ORDERED.

DATE: March 30, 2015

/s/

ROBERT MARTIN
Administrative Law Judge
Office of Administrative Hearings