

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WHITTIER CITY SCHOOL DISTRICT.

OAH CASE NO. 2015031257

ORDER DENYING JOINT SECOND
REQUEST FOR CONTINUANCE

On June 2, 2015, the parties filed a joint second request to continue the prehearing conference and due process hearing dates in this matter.

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, after already having requested and received a continuance to mutually agreeable hearing dates in July 2015, the parties have requested a second continuance of the hearing dates in excess of 120 days from the initial hearing date without a showing of good cause. The only reason stated for the second continuance request is the parties' failure to reach a settlement agreement during mediation on May 28, 2015, which does not constitute a significant, unanticipated change in the status of the case as a result of which the case will not be ready for hearing. The parties may re-submit the request to continue with a sufficient showing of good cause, or if they have agreed upon hearing dates within 90 days of the initial hearing date.

IT IS SO ORDERED.

DATE: June 2, 2015

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings