

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

IRVINE UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2015040054

ORDER DENYING REQUEST FOR
CONTINUANCE OF PREHEARING
CONFERENCE

On April 8, 2013, the parties filed a joint request to continue the prehearing conference currently set for April 13, 2015, on the grounds that they are “working cooperatively to continue the mediation and due process hearing to 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, the parties have requested a continuance of the PHC while they attempt to agree upon dates to continue the mediation and due process hearing. While OAH would be inclined to continue all dates in this matter, neither the interests of justice nor judicial economy is served by setting a PHC the second business day before a due process hearing.

The parties may re-submit a request to continue after they have agreed upon dates for mediation and due process hearing. If the parties are unable to agree on hearing dates, they may request OAH to select dates.

IT IS SO ORDERED.

DATE: April 08, 2015

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings