

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL  
DISTRICT,

OAH Case No. 2015050922

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TORRANCE UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015090531

ORDER DENYING REQUEST FOR  
CONTINUANCE

On November 2, 2015, District filed a motion to continue, seeking a continuance from the currently scheduled hearing date of November 19, 2015, to February 9-11, 2016, citing counsel's unavailability on the currently-scheduled hearing date. On November 4 and 5, 2015, Student opposed and District responded. As discussed below, the motion is denied.

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 prehearing conference and hearing dates are confirmed and shall proceed as calendared. The matter has been pending since May 6, 2015. Given the age of the dispute, although the current hearing date was scheduled as a result of Student's September 25, 2015 amended complaint, this cannot be considered the initial continuance. Moreover, District's motion, declaration, and response do not indicate unavailability on the currently-scheduled hearing date of November 19, 2015, except for the pendency of another due process hearing in OAH case number 2015071314, also scheduled for that day. That case has been pending for a shorter time, and therefore there is not good cause for the pendency of that matter to continue this one. Moreover, the pendency of two matters on counsel's calendar is such a frequent occurrence that it cannot serve as the sole justification for a continuance, especially since District waited over a month after the issuance of the scheduling order for the amended complaint to make this continuance request.

IT IS SO ORDERED.

DATE: November 05, 2015

/s/

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JUNE R. LEHRMAN  
Presiding Administrative Law Judge  
Office of Administrative Hearings