

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

HUNTINGTON BEACH UNION HIGH
SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2015100189

ORDER DENYING STUDENT'S
REQUEST FOR CONTINUANCE
WITHOUT PREJUDICE

On October 22, 2015, Student filed a request to continue the dates in this matter. Student had apparently served her request for continuance on the Huntington Beach Union High School District on October 10, 2015, but delayed filing it with the Office of Administrative Hearings. Student stated her parents had suggested to Huntington Beach that the pretrial conference be continued to January 11, 2016, and that the hearing be continued to January 19, 2016, but that Huntington Beach was not agreeable to those dates. Student gave no explanation as to why her parents would not be available for the presently scheduled dates.

Huntington Beach filed a letter with OAH on October 14, 2015, indicating that it did not agree to Student's proposed dates. Huntington Beach did not give any explanation as to why it is not available for the January dates proposed by Student. Huntington Beach indicated that it was working with Student's parents to identify mutually agreeable dates and that a joint request for continuance would be forthcoming. To date, OAH has not received a joint request for continuance from the parties.

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).)

In this case, the parties have not offered any explanation or justification for their respective positions regarding the hearing dates. Student has not explained why her parents are not available on the present dates and Huntington Beach has not provided a reason why it cannot agree to Student's proposed dates.

Student's request for continuance is therefore denied for lack of good cause to continue the matter. The case will proceed as presently scheduled. Student may make another request for continuance to the Administrative Law Judge at the prehearing conference scheduled on October 23, 2015, at 10:00 a.m. Student should be prepared to present an explanation as to why her parents are not available on the presently scheduled hearing date. If Huntington Beach is still opposed to Student's proposed dates, it should be prepared to explain why it is not available, and to offer alternative dates for the hearing.

The parties should note that OAH is dark the entire week of January 11, 2016, and therefore no prehearing conferences or due process hearings will be scheduled that week.

IT IS SO ORDERED.

DATE: October 22, 2015

/s/

DARRELL LEPKOWSKY
Acting Presiding Administrative Law Judge
Office of Administrative Hearings