

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT AND LOS ANGELES
COUNTY OFFICE OF EDUCATION.

OAH Case No. 2015120709

ORDER DENYING DISTRICT'S
REQUEST FOR CONTINUANCE

On January 14, 2016, Torrance Unified School District filed a request to continue the dates in this matter with the Office of Administrative Hearings to dates approximately 90 days from the initial dates scheduled. District based its request on its limited authorization for only one attorney in the firm representing District to appear on its behalf, and that attorney having a very busy trial calendar for the next few months.

On January 20, 2016, Student filed opposition to the continuance, due to District's failure to meet and confer with Student on mutually agreed continuance dates, and due to the length of the continuance requested.

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.

District has not established good cause for a continuance. The declaration of the administrator of the firm representing District does not show that all attorneys in that firm, let alone District's preferred attorney, are unavailable due to death, illness or other excusable circumstances. District's preference for an unavailable attorney over an available attorney is not an excusable circumstance for purposes of establishing good cause for a continuance. Similarly, a continuance because counsel is assigned to handle a hearing, which may not go forward and may be reassigned to other counsel, is premature. District also failed to discuss and confer regarding new hearing dates as required by OAH. Forms are available on the OAH website that explain the procedure.

IT IS SO ORDERED.

DATE: January 21, 2016

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings