

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

REDLANDS UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012040065

ORDER DENYING REQUEST FOR
CONTINUANCE

On April 30, 2012, Student filed a request for a continuance on the ground that Student wanted to seek legal representation. The request sought mediation on June 19, 2012, but did not seek specific dates for a prehearing conference and hearing. The request did not contain any indication that it had been served on District, and no reply of any kind was received by District.

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, Student has requested a continuance of the hearing dates, and OAH is inclined to grant the continuance. However, the parties did not discuss and confer regarding new hearing dates as required by OAH. Although Student filed the form that is available on OAH's website, Student did not indicate that District had been contacted and

asked to agree to new, specific dates. Trial setting conferences are set only in unusual cases. Student may re-submit the request to continue after having contacted District to discuss if mutually agreed dates for mediation, prehearing conference and hearing could be agreed on. If District will not agree, Student may resubmit the form with suggested dates for all events – mediation, prehearing conference and hearing. Student shall also make sure that any future filings with OAH contain a “proof of service” showing that the document was faxed or mailed to the District.

IT IS SO ORDERED.

Dated: May 07, 2012

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge
Office of Administrative Hearings