

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GLENDALE UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012101082

ORDER DENYING SECOND  
REQUEST FOR CONTINUANCE

On December 4, 2012, the parties, through District's counsel, filed two requests for continuance. The first, filed in the morning, requested hearing dates in January of 2013 and contained a typographical error referring to another case number that is now closed. The order improperly sought mediation on a Monday, despite OAH historically not conducting Monday mediations. An order was prepared, and issue the same day as this order, granting the request with a corrected mediation date.

Later that day, a second continuance request was filed seeking different dates than the first request. The second continuance request is deficient in that District's counsel appears to be unaware of OAH scheduling practices that have been in place for many years. In particular, the second request again seeks mediation on a Monday, when OAH only schedules mediations on Tuesday through Thursday. The request also seeks a prehearing conference on a Thursday at 10:30 a.m., whereas OAH only conducts prehearing conferences on Mondays and Wednesdays at 10:00 a.m. and 1:30 p.m. Finally, the second request seeks a hearing start date on a Monday that is a state holiday.

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 second request for good cause and considered all relevant facts and circumstances. The request is denied. Parties appearing before OAH are expected to be aware of, and follow, OAH scheduling practices when making stipulated requests to continue dates. OAH will not conduct trial setting conferences because parties are expected to be able to meet, confer, and agree upon mutually convenient dates that conform to OAH's long-established scheduling practices.

The dates set forth in the order on the first continuance request will apply and are set forth in a separate order. Given the deficiencies in the second request, i.e., that it requests dates that OAH does not schedule, or is closed, OAH can only guess at what dates would be mutually convenient to the parties. The second request is denied without prejudice to being re-filed, however, it will only be considered if it is without error and requests dates that are consistent with OAH scheduling practices.

IT IS SO ORDERED.

Dated: December 04, 2012

/s/

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