

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

TORRANCE UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014020073

ORDER DENYING DISTRICT'S
REQUEST FOR CONTINUANCE

On February 12, 2014, District filed a request to continue all dates, such that the hearing would occur eight months from the currently scheduled date. The only reason given was parent declined to participate in mediation and District's counsel claimed unavailability on the first day of hearing because she is purportedly the only person authorized to represent District. No opposition was received from Student.

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. District's request is unreasonable and borders on frivolous. Resolution sessions are not required in District-filed cases, and the IDEA expressly does not require a 30-day waiting period for resolution sessions in District-filed matters. The parties are free to meet informally at any time. Similarly, mediation is voluntary. If parent chose not to participate, it is not reasonable to continue the hearing for nearly eight months. More importantly, District's counsel admits that parent has not responded to any attempt by District to schedule anything, so any projected dates are pure speculation. Further, the unavailability of District's counsel for one day of the hearing is not good cause for such an extraordinary continuance, nor is the claim that only one attorney is authorized to act for District. Having chosen to request a due process hearing, District is presumed to be prepared and available to attend mediation and hearing on dates within IDEA timelines as of the date the request was filed.

IT IS SO ORDERED.

DATE: February 19, 2014

/s/

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