

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

VENTURA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014020341

ORDER DENYING REQUESTS TO
ADVANCE OR CONTINUE HEARING
DATES

On February 28, 2014, Student filed a request to cancel mediation in order to advance the hearing to a date prior to March 31, 2014. On March 4, 2014, the Ventura Unified School District (District) filed an opposition, in which it requested a continuance of the hearing to April 14, 2014, explaining that District is closed for Spring Break from March 31 through April 4, 2014 and cannot make the witnesses under its control available during that time. The matter is currently scheduled for hearing on April 2, 2014.

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. Parent may cancel the scheduled mediation, which is voluntary, by contacting OAH.

Here, Student seeks to advance the hearing date, which would deprive District of a reasonable opportunity to prepare for hearing after the initial 30 days for informal resolution has expired. District seeks a continuance of the hearing dates to a week after the return of District staff from Spring Break. OAH is inclined to grant the continuance. However, the parties did not discuss and confer regarding new hearing dates as required by OAH. Forms are available on the OAH website that explain the procedure. Trial setting conferences are set only in unusual cases. District, or the parties jointly, may re-submit the request to continue after they have agreed upon hearing dates. If the parties are unable to agree on hearing dates, they may request OAH to select dates.

IT IS SO ORDERED.

DATE: March 5, 2014

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings