

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

VENTURA UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013020002

ORDER DENYING STUDENT'S
REQUEST FOR CONTINUANCE

On February 6, 2013, Student filed a request to continue the dates in the instant matter. No proposed dates were listed and Student's attorney indicated that she would be requesting a trial setting conference.

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. Student has requested a continuance of the hearing dates, and OAH is inclined to grant the continuance. However, Student's attorney did not discuss and confer with District regarding new hearing dates as required by OAH, or alternatively, propose dates on which Student's attorney is available. Forms are available on the OAH website that explain the procedure. Trial setting conferences are set only in unusual cases and failure to meet and confer with another party or offer proposed dates is not grounds for a trial setting conference. Student may resubmit the request after attempting to obtain agreement with District. If the parties are unable to agree on hearing dates, they may request OAH to select dates without the need for a trial setting conference.

IT IS SO ORDERED.

Dated: February 12, 2013

/s/

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