

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NORWALK-LA MIRADA UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2012090570

ORDER DENYING THIRD REQUEST
FOR CONTINUANCE

On March 20, 2013, the parties filed a third request for a continuance, despite having been advised at the time of the second continuance that no further continuances were contemplated given the age of this case. The parties now contend a continuance because although they have completed all assessments, they have chosen to schedule an IEP team meeting after the hearing start date.

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. No good cause has been shown. To the contrary, the parties represent that all assessments have been completed except for a site visit, which was scheduled to occur on March 21, 2013. The majority of the parties' request is a recitation of the procedural history of this case. No explanation has been given for why the parties cannot conduct an IEP team meeting in the over two weeks between this observation and the hearing dates, or why the observation was not completed sooner given that no further continuances were contemplated. Given the age of this case, the parties are expected to give this matter the priority it deserves and should shift their schedules to provide for earlier conduct of an IEP team meeting if they wish to have one as part of settlement discussions.

IT IS SO ORDERED.

Dated: March 22, 2013

/s/

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