

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2013050611

ORDER DENYING FOURTH
REQUEST FOR CONTINUANCE

On November 6, 2013, the parties filed what they described as their second continuance request, which in reality was their fourth request. Continuances had previously been granted on June 27, 2013, denied on September 25, 2013 for lack of good cause, and granted at a September 30, 2013, prehearing conference to accommodate a purportedly imminent settlement. Having had six months to negotiate, the parties now seek a continuance of over 90 days on the ground that a final settlement is still “imminent.”

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 are confirmed and shall proceed as calendared. Under no circumstances does an “imminent” settlement, six months after filing, constitute good cause for a continuance, let alone an additional continuance of over 90 days. The parties have had more than ample time to negotiate a settlement. In addition, it is not good cause to continue the hearing because District, which is a fairly large, urban school district, would prefer to conduct one due process hearing at a time. No further continuance requests will be considered.

IT IS SO ORDERED.

Dated: November 07, 2013

/s/

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