

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HUNTINGTON BEACH UNION HIGH
SCHOOL DISTRICT.

OAH CASE NO. 2013100821

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING

On November 18, 2013, counsel for the Huntington Beach Union High School District filed with the Office of Administrative Hearings (OAH) a request to continue and reset the initially scheduled hearing dates in the case. On November 20, 2013, the advocate for Student filed with OAH an opposition to this request. On the same day, the District filed with OAH a reply to the opposition.

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: Granted. All dates are vacated. Here, the District requests a continuance of the initially scheduled hearing dates due to attorney unavailability. As with any party in a special education administrative due process proceeding, the District has the right to select an attorney of its choosing, and the continuance granted is not for an unreasonable length of time. Student contends in opposition to the continuance request that

this proceeding requires expedited treatment, but the case does not fall within the confines of 20 U.S.C. section 1415(k)(4)(B). This matter will be set as follows:

Mediation:	To be determined by the parties.
Prehearing Conference:	02/24/2014, at 3:00 p.m.
Due Process Hearing:	03/03/2014, at 1:30 p.m.; 03/04/2014; 03/05/2014; 03/06/2013, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: November 25, 2013

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings