

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PLACENTIA-YORBA LINDA UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2014020982

ORDER DENYING REQUEST FOR
CONTINUANCE

On June 17, 2014, the parties jointly filed a request to continue the dates in this matter on the grounds that the current dates are not what the parties agreed upon, the parties are now not available until late October, and the parties wish to mediate before hearing.

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 prehearing conference and hearing dates are confirmed and shall proceed as calendared. This matter was filed on February 28, 2014. On April 9, 2014, the parties jointly requested a continuance of the due process hearing in this matter to September 16 through 18, 2014, a period then more than five months in the future. The only ground asserted was that those were the first dates "available" to the

parties and their attorneys. A continuance of that length was denied on April 10, 2014, and the due process hearing was set for July 22, 2014.

Now the parties again move to continue the due process hearing, this time to October 27 through 30, 2014 on grounds that do not demonstrate good cause for continuance. The dates set on April 10, 2014 are not the dates the parties agreed upon because those dates would have unduly delayed resolution of this matter. That agreement is not binding on OAH and was previously rejected as a ground for continuance in connection with the April 9, 2014 application. The parties have ample time to convene a mediation before July 22, 2014 without a continuance. And the continuance the parties now seek, for a period of more than four months, is unsupported by any showing except the bare claim that they are “unavailable” until then. In light of the previous continuance, a far stronger showing of good cause is required to justify another delay of that length.

IT IS SO ORDERED.

DATE: June 18, 2014

/s/

CHARLES MARSON
Administrative Law Judge
Office of Administrative Hearings