

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014051114

ORDER DENYING REQUEST FOR
CONTINUANCE

On June 26, 2014, Student filed a request to continue the hearing for approximately 60 days on the ground that Student's attorney was scheduled to represent another Student in a hearing that started the day after the scheduled hearing in this case, that Student wanted to attend mediation, and that more than one day was needed for hearing. Student's attorney did not note that the other matter cited as a conflict involves Student's sibling, and was filed the same day as the instant matter. District opposed the request as not presenting good cause.

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. Student's attorney did not demonstrate good cause for a continuance of approximately 60 days. While the schedules of both hearings may need to be adjusted to have both sibling matters heard sequentially, no good cause reason was given to delay 60 days in this matter. Similarly, Student's desire to attend mediation does not justify a continuance. Mediation is voluntary, and Student provided no information indicating that District had agreed to a new mediation date after cancelling the initial mediation. Even if District agrees to attend mediation, mediation could be scheduled prior to, or on the first day of hearing. Any conflict as to which matter shall proceed to hearing first, and the dates for the sequential hearings, can be resolved at the prehearings conferences.

IT IS SO ORDERED.

DATE: June 30, 2014

/s/

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