

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015100314

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

On November 5, 2015, District filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon unavailability of District's counsel on the dates ordered by OAH due to being out of town with prepaid travel plans that were arranged prior to the scheduling order in this case. On November 10, 2015, Student opposed the request based upon viewing the dates District proposed for a continuance as being too remote from a date on which Student filed a prior, but dismissed, due process hearing request. Student did not state any unavailability on the specific dates District proposed, or offer any other reason for opposing the continuance to the specific dates District proposed.

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).)

The case is currently scheduled for a telephonic prehearing conference on November 23, 2015, and for a due process hearing to begin on November 30, 2015. District has requested a continuance of the due process hearing date for 36 days, which in addition to encompassing the travel plans of District's counsel also encompasses the end-of-the-year school holidays. This initial request for a continuance is based on District's attorney's extended travel

during the Thanksgiving holiday. Although District was served with the scheduling order for this case on October 9, 2015, and District waited almost one month to file this request for a continuance, District was working with Student's counsel during that time and attempting to coordinate mutually agreeable dates for a continuance. OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. The parties may contact OAH to request a mediation date, if desired. This matter will be set as follows:

Prehearing Conference: December 21, 2015, at 1:00 p.m.

Due Process Hearing: January 5, 6, and 7, 2015, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing will begin at 9:00 a.m. each day, except the first day, on which day the hearing will begin at 9:30 a.m., unless otherwise ordered.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: November 10, 2015

/s/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings