

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

TORRANCE UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2018110449

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL DISTRICT.

OAH Case No. 2019020666

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On November 13, 2018, Torrance Unified School District filed a request for due process (complaint) naming Parent on behalf of Student. On February 15, 2019, Student filed complaint, naming Torrance Unified School District. On March 6, 2019, OAH consolidated OAH Case Number 2019020666 (Student's Case) with OAH Case number 2018110449 (Torrance's Case) and set the matter for hearing on the dates in Student's case. The parties mediated the consolidated cases on March 22, 2019. The prehearing conference in the consolidated is set for March 29, 2019, and the hearing for April 9-11, 2019. On March 27, 2019, the parties filed a joint motion requesting a continuance of the consolidated hearing dates to August 27-29, 2019. The request included a declaration under penalty of perjury by Student's attorney. The Declaration asserted that the parties could not find mutually agreeable dates before the requested dates in August 2019.

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 IDEA mandates the speedy resolution of due process matters. Although OAH is inclined to grant a continuance upon a showing of good cause, the parties failed to establish good cause for a continuance of five months following mediation. Student's counsel indicated the parties wish to continue their attempts at resolution following mediation. However, she offered no explanation why those attempts should take five months, until the end of August 2019. In addition, Student's counsel represents she is unavailable for hearing due to preplanned travel arrangements during the first two weeks of June 2019. With that exception, neither party offered any evidence that an *actual conflict* exists at any time between the current dates and the end of May or after the middle of June before the end of August. Neither party offered evidence that necessary witnesses are unavailable on the current hearing dates or any other date between April and the dates they requested.

Accordingly, the request is denied without prejudice. The parties may resubmit a request for continuance with mutually agreeable dates that are within sixty days of the March 22, 2019 mediation, or a declaration under penalty of perjury establishing good cause for a continuance for longer than 60 days. All prehearing conference dates and hearing dates are confirmed, unless otherwise ordered.

IT IS SO ORDERED.

DATE: March 27, 2019

DocuSigned by:

ADRIENNE L. KRIKORIAN
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Administrative Law Judge
Office of Administrative Hearings