BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: LONG BEACH UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013120124 ORDER DENYING STUDENT'S REQUEST FOR CONTINUANCE

On February 18, 2014, the first day of hearing, Student filed a request to "stay" the hearing.[1] The request for a "stay" has been interpreted as a request for a continuance. The request asked that an attached medical note be treated as confidential. The reasons given were that, due to an unspecified incapacity in the past, Student's parent wanted additional time to conduct discovery and file prehearing motions, including a motion to dismiss. At hearing, the assigned ALJ notified District of Student's request without revealing the content of the medical note, and District confirmed that it had been served with the first page of the request. District orally opposed the continuance request.

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).)

[1] Although the request was faxed to OAH on February 17, 2014, all state offices were closed that day for the President's Day holiday. Accordingly, the request was received on February 18, 2014.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. Student's parent had notice of this matter from the first weeks of December and two prehearing conferences have been conducted, all with mail and telephonic notice to Student's parent. The medical note provided was not specific, and established that Student's parent was not unavailable as of February 10, 2014, the date of the final prehearing conference. It is not good cause to continue the matter further for "discovery" or to allow Student to file a motion to dismiss on the factual merits, as neither procedure is available before a special education due process hearing. The hearing shall proceed as calendared.

IT IS SO ORDERED.

DATE: February 18, 2014

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