BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
BUENA PARK SCHOOL DISTRICT,	OAH Case No. 2015010467
v.	ORDER GRANTING REQUEST FOR CONTINUANCE OF DUE PROCESS HEARING
PARENT ON BEHALF OF STUDENT.	

On May 6, 2015, during the testimony of the first witness called in the due process hearing, Buena Park School District requested a continuance in order to allow District time to translate exhibits into Romanian. Parent, who was self-represented, was unable to adequately represent Student due to her limited English. According to Parent, although she speaks some English, she is unable to read and comprehend complex documents such as the assessment report and IEP which were in evidence.

APPLICABLE LAW AND DISCUSSION

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 parties agreed to continue the due process hearing to June 2, 3 and 4, 2015. District agreed to provide translated exhibits to Parent as the translated exhibits become available, and to provide the last exhibit no later than 5 p.m., May 29, 2015. OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is granted.

ORDER

1. The due process hearing shall continue on June 2, 3 and 4, 2015 and continue day to day at the discretion of the administrative law judge. The hearing shall begin at 9:30 a.m., on the first day and at 9:00 a.m., on all other days unless otherwise ordered.

2. District shall make Ms. Anton available to continue her testimony on June 2, 2015, at 9:30 a.m., unless otherwise ordered.

3. District shall have District's exhibits three, four, and five, and all other exhibits that District intends to offer, translated into Romanian. District is not required to translate documents which have been previously translated by either party.

4. Translated exhibits, beginning with District's exhibit numbers three, four and five, shall be provided to Parent as the translated exhibits become available. District shall provide the last exhibit to be translated to Parent no later than 5:00 p.m., May 29, 2015.

5. The parties shall immediately notify all potential witnesses of the hearing dates, and shall serve any subpoenaed witnesses if necessary, to ensure that 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: May 07, 2015

/S/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings