

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

IQ ACADEMIES OF CALIFORNIA - LOS ANGELES.

OAH CASE NUMBER 2020010388

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

FEBRUARY 6, 2020

On February 5, 2020, IQ Academies filed with the Office of Administrative Hearings, referred to as OAH, a second request to continue this matter, based upon the unavailability of a critical witness. This motion followed IQ Academies' request for continuance on January 30, 2020, which OAH denied without prejudice on February 4, 2020. The earlier request was based upon counsel's potential unavailability due to a scheduling conflict with another scheduled OAH due process matter. However, that matter had not yet begun. On February 6, 2020, Student filed a prehearing conference

statement which included an opposition to the February 5, 2020 motion to continue. The hearing is scheduled for February 19 and 20, 2020.

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. (Ed. Code, § 56505, subd. (f)(3); 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 or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. IQ Academies has established good cause for a continuance of the hearing. The witness, who IQ Academies alleges was Student's sole academic instructor from August 2018 until January 2020, and thus an essential witness, went on medical leave on or about February 3, 2020. IQ Academies requests a 30-day continuance to

allow the witness to recuperate so that she can participate in person or telephonically at hearing. This is the first continuance in this case, and IQ Academies is requesting a thirty-day continuance, which is reasonable.

The request is granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference will be held on March 2, 2020, at 10:00 AM. Prehearing motions are due to OAH no later than three business days before the prehearing conference or with evidence of good cause why it was not possible to file the motion by that date.

Due Process Hearing will be held on March 10, 11 and 12, 2020. The hearing shall begin at 9:30 AM the first day, and at 9:00 AM on all other days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or subpoena a witness.

IT IS SO ORDERED.

Adrienne L. Krikorian
Administrative Law Judge
Office of Administrative Hearings