

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012080960

ORDER FOLLOWING PRE-HEARING
CONFERENCE GRANTING
CONTINUANCE OF PHC AND DPH

On January 16, 2013, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Deborah Myers-Cregar, Office of Administrative Hearings (OAH). Bruce Bothwell, Attorney at Law, appeared on behalf of Student. Don Erwin, Attorney at Law, and Julie Hall, appeared on behalf of Los Angeles Unified School District (District). The PHC was recorded. Both parties filed PHC statements.

Student' counsel is currently engaged in hearing with another OAH case, and was ordered by that ALJ be available next week to complete the hearing. Student's counsel requested a continuance, and District did not oppose the request.

Based on discussion of the parties, the ALJ issues the following order:

1. 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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is Granted. All dates are vacated. Good cause exists because counsel is unavailable for hearing in this case because he is engaged in another hearing before OAH.

This matter will be set as follows:

Prehearing Conference: February 20, 2013 at 1:30 PM
Due Process Hearing: February 26, 2013 at 1:30 PM, and February 27, 28, 2013, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

2. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035. THE PARTIES SHOULD ALSO LEAVE CONTACT INFORMATION SUCH AS CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. THE PARTIES SHOULD SIMULTANEOUSLY FAX THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT THE FAXINATION LINE at 916-376-6319.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

IT IS SO ORDERED.

Dated: January 16, 2013

/s/

DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings