

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2012090643
v.	
TORRANCE UNIFIED SCHOOL DISTRICT,	
TORRANCE UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2012100259
v.	
PARENT ON BEHALF OF STUDENT.	ORDER FOLLOWING PRE-HEARING CONFERENCE

On January 16, 2013, a recorded, telephonic prehearing conference (PHC) was commenced before Administrative Law Judge (ALJ) Robert G. Martin, Office of Administrative Hearings (OAH). Edwin Egelsee, Esq. appeared on behalf of Student. Geoffrey Winterowd, Esq. appeared on behalf of Torrance Unified School District. (District.)

As a preliminary matter, the parties discussed Student's request for a continuance of the PHC and Due Process Hearing in the matter, which was made on grounds that Student on January 14, 2013 received from District more than 190 pages of educational records that were potentially material to Student's case and responsive to a request for educational records that Student had presented to the District on June 21, 2012. District did not object to the requested continuance.

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).)

Based on discussion of the parties, and considering all relevant facts and circumstances, it appears that good cause exists to grant Student a reasonable continuance to evaluate the potential material evidence produced by District on January 14, 2013. Accordingly, the ALJ issues the following order:

ORDER

1. On Student's motion, made with good cause and not opposed by the District, the PHC in this matter is continued for completion, and the Due Process Hearing, previously scheduled to commence on January 22, 2013, continued, as follows:

Completion of Telephonic PHC: January 28, 2013 at 1:30 p.m.

Due Process Hearing: February 4-7, 12 and 13, 2013, and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ. The hearing shall begin at 9:00 a.m. and end at 5:00 p.m., except for February 4, 2013, on which day the hearing shall start at 1:30 p.m., unless otherwise ordered. The hearing shall take place at Torrance Unified School District, 2335 Plaza Del Amo, Torrance, CA 90509

Discussing Student's request for a continuance, each party indicated that it will need to make adjustments in present schedules to accommodate the above hearing dates. To provide some flexibility in scheduling in this instance, the parties are given leave to submit a joint request to further continue the Due Process Hearing to six specified, agreed-upon, consecutive Monday through Thursday proposed hearing days, with the hearing to commence no later than March 4, 2013. Absent unforeseen circumstances, a further continuance will not otherwise be granted.

2. Each party shall file and serve an updated PHC Statement, if necessary, no later than January 24, 2013.

Dated: January 16, 2013

/s/

ROBERT MARTIN
Administrative Law Judge
Office of Administrative Hearings