

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT, ALHAMBRA UNIFIED
SCHOOL DISTRICT, AND GARVEY
ELEMENTARY SCHOOL DISTRICT

OAH CASE NO. 2012080536

CORRECTED:

ORDER FOLLOWING PRE-HEARING
CONFERENCE OF FEBRUARY 20,
2013; ORDER VACATING HEARING
DATES AND SCHEDULING STATUS
CONFERENCE

On February 20, 2013, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Paul H. Kamoroff, Office of Administrative Hearings (OAH). Tania L. Whiteleather, Attorney at Law, appeared on behalf of Parent on behalf of Student (Student). Benjamin Nieberg, Attorney at Law, appeared on behalf of the Garvey Elementary School District (GESD). Cole Dalton, Attorney at Law, appeared on behalf of the Alhambra Unified School District (AUSD). Donald Erwin, Attorney at Law, appeared on behalf of the Los Angeles Unified School District (LAUSD). The PHC was recorded.

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

Request to Vacate Hearing Dates and Schedule Status Conference.

At the beginning of the PHC, the parties jointly requested that the hearing dates for this matter be vacated due to settlement agreements between Student and AUSD, GESD and LAUSD. The parties represented that each party has agreed to a settlement agreement and AUSD and GESD requires a short continuance to obtain school board approval for the respective agreements.

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 continuance and considered all relevant facts and circumstances. Good cause existing therefore, the request is granted.

All dates are vacated. This matter will be set as follows:

Status Conference: March 27, 2012, at 11:00 a.m.

IT IS SO ORDERED.

Dated: February 21, 2013

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings