

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. 2013051008

ORDER AT HEARING GRANTING
REQUEST FOR CONTINUANCE AND
SETTING PRE-HEARING
CONFERENCE AND DUE PROCESS
HEARING

On September 10, 2013, the due process hearing (DPH) proceeded as previously set with Administrative Law Judge, Sabrina Kong.

Patrick Balucan, Attorney at Law, represented the Los Angeles Unified School District (District) and appeared on District's behalf. District's Due Process Coordinator, Diana Massaria, and law clerk, Robert Newman, were also present.

Gloria Espinel, Mother, appeared on Student's behalf. Bernadette Buckley, the Spanish Interpreter, interpreted for Mother.

At hearing, Mother requested a continuance of the DPH to after September 16, 2013, the date of Student's criminal court hearing. Mother represented that the proper placement for Student is a residential treatment center, but that Student has been incarcerated since August 16, 2013, and the issue of whether Student's incarceration will continue, or whether he will be released for proper educational placement, will be determined at the September 16, 2013 hearing. District agreed to the continuance stating that it learned of Student's incarceration at the DPH, and that District has no educational placement responsibilities for Student while Student is incarcerated.

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 Mother's representations and the facts set forth above, ALJ found good cause and granted the continuance request and continued the pre-hearing conference (PHC) and DPH dates to those that were mutually agreeable to the parties as follows:

Mediation:	To be determined by the parties.
Prehearing Conference:	October 14, 2013 at 10:00 AM
Due Process Hearing:	October 22, 23 and 24, 2013 at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

ALJ noted that Mother did not participate in the August 23, 2013 PHC, and that only father, who had no knowledge of the issues in the due process complaint, participated in the PHC on Student's behalf. ALJ ordered Mother to participate at the October 14, 2013 PHC to inform the ALJ as to Student's status.

IT IS SO ORDERED.

Dated: September 10, 2013

/s/

SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings