

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STANISLAUS UNION SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013050308

ORDER FOLLOWING STATUS
CONFERENCE EXTENDING TIME
FOR ISSUANCE OF DECISION

On November 6, 2013, the Office of Administrative Hearings (OAH) conducted a status conference. Both parties participated.

The parties were informed that as a result of a death in the immediate family of Administrative Law Judge (ALJ) Deidre L. Johnson, she is unable to complete the decision by the deadline of November 20, 2013. As a result, OAH could reassign the matter to another ALJ to read the transcript, evaluate the evidence, and issue a decision, or extend the timeline for the decision. District's attorney indicated that District preferred to extend the decision timeline. Student's attorney requested additional time to discuss the situation with his client.

The status conference was continued to November 7, 2013. District raised several reasons supporting its request that the matter remain with ALJ Johnson and the timeline be extended: District argued that since it filed the case, consideration should be given to its preference; Student remains in a stay put placement, so she will not be prejudiced by any delay; District would not be able to file a peremptory challenge if the case were reassigned; and Student had made several requests to disqualify ALJ Johnson for cause, and reassigning the case would give Student the result that had previously been denied. Student's attorney responded that his client wanted to end the uncertainty of having this matter pending any longer than necessary, and that the law required a speedy resolution of special education disputes. Student also argued that the prior requests to disqualify the ALJ were immaterial and had no bearing on this situation.

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).)

Weighing all of the relevant facts and circumstances, good cause is found to extend the timeline for the decision in this matter. The decision shall be issued no later than December 9, 2013.

It is so ordered.

Dated: November 19, 2013

/s/

JUDITH KOPEC
Division Presiding Administrative Law Judge
Office of Administrative Hearings