

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013080297

ORDER GRANTING REQUEST FOR
CONTINUANCE

Student filed a complaint naming Long Beach Unified School District on August 7, 2013. On September 18, 2013, the Office of Administrative Hearings (OAH) granted an initial joint request to continue the initial hearing date, and scheduled the hearing for January 6 through 9, 2014. On December 18, 2013, the parties submitted a second joint request for continuance and requested hearing dates of March 10-13, 2014. For the reasons discussed below, the request is granted.

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. The parties have requested an additional sixty days in order to hold an IEP team meeting to consider assessments of Student.

Although the parties do not state whether those assessments have been completed, or, if not, when they will be completed, the parties are asking for an additional 60 days, which is reasonable. However, because this is a second continuance and the dates requested are more than six months after the complaint was filed, OAH does not contemplate granting any further continuances in this matter. The parties will have more than ample time to complete settlement discussions.

Accordingly, the new dates are:

PHC: March 3, 2014 at 1:00 p.m.

DPH: March 10, 2014 at 1:30 p.m., and March 11, 12, and 13, 2014 at 9:00 a.m., and continuing from day to day, Monday through Thursday, at the discretion of the ALJ.

IT IS SO ORDERED.

Dated: December 16, 2013

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings