

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DOWNEY UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014040514

ORDER FOLLOWING PRE-HEARING
CONFERENCE AND GRANTING
FIRST CONTINUANCE

On May 23, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) June R. Lehrman, Office of Administrative Hearings (OAH). Alexis Casillas, Attorney at law, appeared on behalf of Student. Mary Kellogg, Attorney at Law, appeared on behalf of District. The PHC was recorded.

On May 20, 2014 and May 21, 2014, Student filed requests for a first continuance in this matter. Student contended, in pertinent part, that District would not be prejudiced by this first continuance, but that the parties had been unable to agree upon hearing dates. In addition, Student contended that certain records which were necessary to Student's case had been requested as educational records but had not yet been provided. On May 22 and 23, 2014, District opposed the continuance requests.

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. Accordingly, all dates are continued and this matter is calendared as follows:

Prehearing Conference:	September 5, 2014, at 10:00 a.m. Revised PHC Statements shall be filed three days prior to the PHC.
Due Process Hearing:	September 15-18, 2014, and continuing day to day, Monday through Thursday as needed at the discretion of the ALJ. The hearing shall begin each day at 9:00 a.m. and end at 4:30 p.m. with the exception of the first day of hearing, on which day the hearing shall begin at 1:30 p.m., unless otherwise ordered.

IT IS SO ORDERED.

DATE: May 23, 2014

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings