

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HESPERIA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014020955

ORDER FOLLOWING STATUS
CONFERENCE AND SETTING
MEDIATION, PREHEARING
CONFERENCE AND HEARING

Student filed this case in February 2014. The Office of Administrative Hearings scheduled a mediation session, a prehearing conference and the hearing in April 2014. Student requested that hearing dates to be taken off calendar and a status conference be set after May 27, 2014, because the parties were optimistic that a settlement would be reached by then. On April 7, OAH granted the request and scheduled a status conference for June 11, 2014. The request to vacate the dates was deemed a request for a continuance; OAH's order granted Student's continuance request.

On June 11, 2014, OAH conducted a status conference. Frank L. Zankich, attorney for Student, and Vivian E. Billups, attorney for Hesperia, participated in a status conference. Mr. Zankich stated that the parties scheduled an IEP team meeting on August 19, and requested a hearing be scheduled after that date in case the matter did not settle. Ms. Billups suggested hearing dates the week of September 8, 2014. Mr. Zankich objected to OAH's proposed dates because he believed that there would be no reason to conduct a hearing prior to the August 19 IEP team meeting, and he had another trial scheduled. Ms. Billups objected to OAH's proposed dates because school would not be in session and witnesses would be unavailable.

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 and considered all relevant facts and circumstances. The parties' request to significantly postpone the hearing dates is denied. Given the age of the case, the representation that a settlement was anticipated in late May, and the seemingly limited relevance of an IEP team meeting occurring six months after the allegations at issue, this case is scheduled as follows:

Mediation:	August 6, 2014, at 9:30 a.m.
Prehearing Conference:	August 11, 2014, at 3:00 p.m.
Due Process Hearing:	August 20, 21, 26, and 27, 2014, beginning at 9:30 a.m. the first day and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

It is ordered.

DATE: June 12, 2014

/s/
JUDITH A. KOPEC
Division Presiding Administrative Law Judge
Office of Administrative Hearings