

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

BALDWIN PARK UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2014060134

PARENT ON BEHALF OF STUDENT,

v.

BALDWIN PARK UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014041006

ORDER FOLLOWING PREHEARING
CONFERENCE; GRANTING REQUEST
TO CONTINUE DATES; AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING DATES

On June 20, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Adeniyi A. Ayoade, Office of Administrative Hearings. Carolyn Olson, Attorney at Law, and Hamlet Yarijanian (Advocate), appeared on behalf of Student. Meredith B. Reynolds, Attorney at Law, appeared on behalf the Baldwin Park Unified School District (Baldwin Park). The PHC was recorded. Based on discussion with the parties, the ALJ issues the following order:

Motion to Continue Prehearing Conference and Hearing Dates

On June 19, 2014, Student filed a request to continue the dates for the prehearing conference and hearing in this matter on the ground that his expert had been unable to observe the proposed placement for Student for the 2014-2015 school year. At the prehearing conference, Baldwin Park, through its attorney, opposed Student's request to continue the dates.

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).)

The request for continuance has been reviewed for good cause and all relevant facts and circumstances have been considered. Good cause is established to continue the dates in this matter as the records shows that Student's case would be prejudiced if his expert is not allowed to observe the proposed placement for Student for the 2014-2015 school year prior to testifying at the pending due process hearing.¹ Accordingly, Student's request to continue the prehearing conference and hearing dates in this matter is:

☒ Granted.² The prehearing conference and due process hearing dates are continued and reset as follows:

Prehearing Conference: August 25, 2014, at 10:00 AM

Due Process Hearing: **September 2-4, and September 9 and 10 2014**, starting at 1:30 p.m. on September 2, 2014, and continue day-to-day thereafter, Monday through Thursday, at the discretion of OAH until the hearing is concluded.

IT IS SO ORDERED.

DATE: June 20, 2014

/s/

ADENIYI AYOADE

Administrative Law Judge

Office of Administrative Hearings

¹ A student has the right to have his or her expert observe a school district's proposed placement prior to testifying in a due process hearing. (Ed. Code, § 56329, subds. (b) and (c); *Benjamin G. v. Special Education Hearing Office* (2005) 131 Cal. App. 4th 875 (*Benjamin G.*); *L.M. v. Capistrano Unified Sch. Dist.* (9th Cir. 2008) 538 F.3d 1261.)

² No further continuances would be granted in these matters without good cause.

