

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014020416

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING

Student filed a due process hearing request (complaint) naming Los Angeles Unified School District (District) on February 12, 2014. On March 12, 2014, the parties jointly requested a continuance, which the Office of Administrative Hearings granted. The new hearing dates were set for July 28 through July 31, 2014. On July 15, 2014, District filed a motion for a second continuance, and Student filed a non-opposition to District's motion. The parties both assert that, at some unidentified time after the complaint was filed, they agreed that District would fund an independent educational evaluation (IEE) of Student which they agreed was necessary to resolve the issues raised in the complaint; that completion of the IEE has been delayed by no fault of either party; and that the parties anticipate that the IEE will be completed, and an individualized education program (IEP) meeting will take place shortly after the beginning of the 2014-2015 school year to evaluate the results of the IEE. The parties seek a continuance of the due process hearing to September 15 to 18, 2014, with a prehearing conference scheduled for September 5, 2014.

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. Although neither party has provided the date on which the IEE was started, or when the IEE is expected to be completed, nevertheless the parties have indicated that they hope that the IEE will help to resolve the issues of the complaint and lead to a resolution of the matter, establishing good cause and justifying a short delay in the hearing dates.

This matter will be set as follows:

Prehearing Conference:	September 5, 2014 at 10:00 AM
Due Process Hearing:	September 15, 2014 at 1:30 p.m., September 16-18, 2014 at 9:00 a.m. and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

Because this case will be more than six months old at the time of the continued hearing dates, OAH does not contemplate granting any further continuances in this matter.

IT IS SO ORDERED.

DATE: July 15, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings