

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF
EDUCATION AND WEST COVINA
UNIFIED SCHOOL DISTRICT

OAH CASE NO. 2014020405

ORDER DENYING REQUEST FOR
CONTINUANCE AND CONFIRMING
HEARING DATES

On August 18, 2014, the parties jointly filed a third request to continue the due process hearing in this matter. Student filed its complaint on February 10, 2014. The Office of Administrative Hearings granted the first request for continuance on March 14, 2014. On April 1, 2014, following mediation, the parties requested a second continuance, which OAH granted, setting the hearing for September 8-11, 2014, dates selected by the parties. The parties now contend that they need three additional months to hold an individualized education program team meeting to consider independent educational evaluations and assessments by District and they are requesting a second mediation prior to the hearing.

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 denied.

This matter is now more than six months old. The parties have not adequately explained why they need an three additional months before proceeding to hearing, particularly if the basis for the request is to enable them to hold an IEP meeting to consider assessments that were conducted after this case was filed, because any resulting IEP is not at issue in the complaint. Moreover, the parties have already mediated this matter with the assistance of an OAH mediator, and therefore OAH is not inclined to provide another mediator.

The parties' desire to attend an IEP team meeting and engage in settlement discussions can be accommodated while still preserving currently scheduled hearing dates. If the parties request that the hearing go dark on the the first day of hearing to allow the parties to engage in settlement discussions, the hearing can proceed on September 9, 2014, and continuing day to day Monday through Thursday, if the matter is not resolved by a final agreement. No continuance of the PHC scheduled for August 29, 2014, would be required.

The parties may re-submit a request for continuance seeking to have the hearing go dark, and assignment of a mediator, as discussed above. All dates are confirmed.

IT IS SO ORDERED.

DATE: August 18, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings