

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

LAKESIDE UNION SCHOOL DISTRICT,
KERN COUNTY SUPERINTENDENT OF
SCHOOLS

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014070884

ORDER FOLLOWING PRE-HEARING
CONFERENCE AND GRANTING
STUDENT'S MOTION FOR FIRST
CONTINUANCE

On August 4, 2014, Administrative Law Judge (ALJ) Adrienne L. Krikorian, Office of Administrative Hearings (OAH) held a telephonic prehearing conference (PHC). Attorney Phillip VanAllsburg appeared on Student's behalf. Attorney Kathleen LeMay appeared on behalf Lakeside Union School District (District) and Kern County Superintendent of Schools. The PHC was recorded. Based on discussion of the parties, the ALJ issues the following order:

Student's Motion for Continuance

Student filed a motion to continue the PHC and due process hearing on July 30, 2014. District filed an opposition on August 4, 2014.

District filed its complaint for due process on July 11, 2014. The initial hearing date is August 7, 2014.

Student asserts that a continuance for good cause is warranted because District has agreed to fund an independent educational evaluation (IEE) and Student needs time for the independent assessor to observe Student in the school setting, following which the parties may be able to resolve the case. The 2014-2015 school year begins in the middle of August, 2014. District opposed the motion on the ground that based on its perception of Student's unique needs District requires a determination on appropriate placement at the beginning of the school year.

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).)

Based upon the above, good cause exists to grant a first continuance in this matter to allow the parties to commence the independent educational evaluation for purposes of the observation of Student by the assessor. The parties understand that the assessor's complete assessment and report may not be completed and an individualized education program team meeting may not be held before the time the hearing on District's complaint is scheduled to begin.

Accordingly, all dates are vacated, and the parties agree to the following dates:

Continued PHC: October 3, 2014 at 10:00 a.m.

Due Process Hearing: October 14, 2014 at 9:30 a.m., October 15, 16, and 21, 2014 at 9:00 a.m., and October 20, 2014 at 1:30 p.m., unless otherwise ordered, and continuing day to day Monday through Thursday as needed at the discretion of the hearing ALJ.

The parties are not required to file new PHC statements unless a change of circumstances occurs. All other matters will be addressed at the continued PHC.

IT IS SO ORDERED.

DATE: August 4, 2014

/s/
ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings