

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARAMOUNT UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014080755

ORDER GRANTING STUDENT'S
REQUEST FOR CONTINUANCE, IN
PART, AND SETTING MEDIATION,
PREHEARING CONFERENCE, AND
DUE PROCESS HEARING

On August 19, 2014, Paramount Unified School District (District) filed a complaint with the Office of Administrative Hearings, which issued an initial scheduling order setting mediation for September 3, 2014, and the hearing for September 17, 2014. On August 29, 2014, Parent on behalf of Student filed a request to continue the mediation, prehearing conference and hearing dates. On September 4, 2014, District filed opposition to Student's request for continuance.

Legal Standard

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).)

Discussion

Parent states that she needs a 90-day continuance for purposes of retaining an attorney and, also, that she is unable to take time from work within the next 60 days. Parent does not indicate the extent of her efforts, if any, to retain counsel since the complaint's filing.

District opposes the continuance, noting that its complaint seeks an order allowing it to conduct a mental health assessment and to implement its placement offer of April 2014, as modified in its correspondence of May 2014. District asserts that Student's present placement poses risks associated with behaviors that include threat of harm to others and to himself. District also argues that Parent's unavailability because of her work schedule is not good cause for the continuance. District requests that, should a continuance be granted, the hearing be scheduled no later than October 20, 2014, because of the risks associated with Student's present placement.

An unrepresented parent's desire to obtain counsel supports a finding of good cause. However, the parent should be diligent in making efforts to obtain representation and such efforts should not require a continuance of three months. Additionally, parents of disabled children are generally burdened with scheduling conflicts because of employment or family needs and the Office of Administrative Hearings understands the calendaring challenges posed by a due process proceeding. However, the due process calendaring is a priority and difficulties with scheduling are not, in themselves, sufficient good cause for a lengthy continuance.

Here, Parent has demonstrated good cause for a continuance but not for a continuance of 90 days. A continuance of 60 days is sufficient to enable Parent to retain counsel. The dates are continued as follows:

Mediation:	November 4, 2014, at 9:30 AM, at Paramount USD, 15110 California Ave., Paramount, CA 90723.
Prehearing Conference:	November 10, 2014, at 1:00 PM.
Due Process Hearing:	November 18, 19, and 20, 2014, at 9:00 AM, except for the first day, which shall commence at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing will take place at Paramount USD, 15110 California Ave., Paramount, CA 90723.

IT IS SO ORDERED.

DATE: September 04, 2014

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings