

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. 2014070183

ORDER FOLLOWING PREHEARING
CONFERENCE. GRANTING
REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On September 5, 2014, a telephonic prehearing conference was held before Administrative Law Judge Eileen M. Cohn, Office of Administrative Hearings. Seymore L. Amster, Attorney at Law, appeared on behalf of Student. Patrick Balucan, Attorney at Law, appeared on behalf of District. The PHC was recorded.

Student's request for a continuance due to a conflicting criminal trial is granted.

On September 4, 2014, Student filed a request to continue the dates in this matter. based upon his counsel's conflict with a Superior-court ordered continuance of a criminal trial on the same dates scheduled for the due process hearing. At the prehearing conference on September 5, 2014, the parties addressed Student's request and stipulated to new dates for the prehearing conference and due process 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:

☒ Granted. All dates are vacated.

Mediation: Not requested. (The parties have not mediated the matter and do not request mediation at this time. Should the parties mutually agree to mediate, they should contact OAH to schedule mediation.)

Prehearing Conference: October 27, 2014, 3 pm.

Due Process Hearing: November 4, 2014 at 9:30 a.m., November 5 and 6, 2014 at 9 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. OAH contemplates no further continuances without a showing of good cause. Student's amended complaint was filed on July 23, 2014, and originally set for hearing on September 16, 2014. Student's counsel has sufficient time to clear his calendar of competing court or due process hearing commitments, or alternatively, secure co-counsel. As such, given the timelines required by the IDEA, the unavailability of counsel due to conflicting court and due process hearing schedules shall not constitute good cause.

IT IS SO ORDERED.

DATE: September 05, 2014

/s/

EILEEN COHN
Administrative Law Judge
Office of Administrative Hearings