

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014080177

ORDER GRANTING DISTRICT
REQUEST FOR CONTINUANCE AND
SETTING DATES FOR PREHEARING
CONFERENCE AND HEARING

On December 9, 2014, Pasadena Unified School District filed a request for a continuance of the initial hearing and prehearing conference dates that were scheduled in this matter after Student's unopposed motion to amend Student's Due Process Hearing Request (complaint) was granted on December 4, 2014. District requested the continuance on grounds that District's counsel for the hearing, Sundee Johnson, Esq., may be unavailable for the hearing set in this matter on January 22, 2015 because her attendance is presently required on January 21-22, 2015 at a special education hearing that was scheduled in Office of Administrative Hearings Case Number 2014090496 before the scheduling of the hearing in this matter. On December 12, 2014, Student filed an opposition to District's request for continuance, on grounds that the hearing in Case Number 2014090496 might not go forward if that matter settles, and on grounds that District's counsel practices in a large firm and should be able to arrange alternative hearing counsel in the event of a conflict.

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 complaint is not of an emergency nature. It seeks funding and reimbursement of Parent's costs incurred for off-campus room and board and transportation associated with Student's attendance at California School for the Blind, and 10 hours of compensatory counseling services. District's request for a 47-day continuance of the initial hearing date set following Student's December 4, 2014 amendment of her complaint is reasonable under the circumstances.

☒ Granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference: March 2, 2015 at 1:00 PM

Due Process Hearing: March 9, 2015 at 1:30 PM; March 10, 11 and 12 at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: January 13, 2015

/s/

ROBERT MARTIN
Administrative Law Judge
Office of Administrative Hearings