

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

CARLSBAD UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014121005

ORDER FOLLOWING PREHEARING
CONFERENCE; GRANTING
REQUEST FOR CONTINUANCE AND
SETTING PREHEARING
CONFERENCE AND HEARING;
GRANTING REQUEST TO CHANGE
VENUE

On February 2, 2015, a telephonic prehearing conference was held before Administrative Law Judge Paul H. Kamoroff, Office of Administrative Hearings. Cara C. Lucier, Attorney at Law, appeared on behalf of Parents on behalf of Student. Justin R. Shinnefield, Attorney at Law, appeared on behalf of the Carlsbad Unified School District. The PHC was recorded.

On January 26, 2015, District submitted a request to continue the hearing based upon the unavailability of its counsel. Student timely submitted an opposition.

On January 28, 2015, Student submitted a request to change the venue of the due process hearing from the District's offices to the OAH offices in downtown San Diego. During the prehearing conference, District opposed Student's request, citing the inconvenience of District witnesses driving to downtown San Diego for 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 granted. All dates are vacated. This matter will be set as follows:

Mediation:	To be determined by the parties.
Prehearing Conference:	3/16/2015 at 10:00 a.m.
Due Process Hearing:	3/25/2015; 3/26/2015, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall begin at 9:30 a.m. on the first day of hearing, and at 9:00 a.m. on all other days, unless otherwise ordered.

As for the request to change venue, special education law requires that “The hearing shall be held at a time and place reasonably convenient to the parent or guardian and the pupil.” (Ed. Code, § 56505, subd. (b).) Here, District offices near Carlsbad, California, are only 30 or so miles from the OAH offices in downtown San Diego. For District witnesses, it will not be an unreasonable requirement for them to travel to the hearing, and the OAH offices will provide a more neutral site for the due process hearing. Accordingly, Parent’s request to change the venue of the due process hearing from District offices to the OAH San Diego office is granted. The hearing shall take place at 1350 Front Street, Suite 3005, San Diego, CA, 92101.

IT IS SO ORDERED.

DATE: February 2, 2015

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings