

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015020710

v.

WHITTIER CITY SCHOOL DISTRICT,

WHITTIER CITY SCHOOL DISTRICT,

OAH Case No. 2015030328

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING JOINT REQUEST
FOR CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING

On July 1, 2015, Student filed a request to continue the prehearing conference and hearing dates in these consolidated matter, with a joint stipulation agreeing upon the requested continued dates. Student's primary expert witness is unavailable for the presently scheduled hearing of August 4, 2015. This is the first request for continuance following the June 10, 2015 filing of an amended complaint in OAH No. 2015020710.

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).)

The parties acknowledge that the testimony of Student's expert is necessary for hearing, especially because she is in the process of completing an anticipated neuropsychological evaluation. The request is supported by the declaration of Student's expert Ann Simun, attesting to her unavailability, as well as a joint request for continuance to agreed-upon dates, duly executed by both parties.

Good cause existing therefore, the request to continue is granted. The prehearing conference and hearing dates are vacated and this matter is set as follows:

Prehearing Conference: September 21, 2015, at 10:00 AM.

Due Process Hearing: September 28, 29, and 30, 2015, and October 1, 2015, commencing at 9:00 AM, except for the first day, which will commence at 1:30 PM. The hearing shall continue day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall take place at WACSEP Legal Division, 8036 Ocean View Avenue, Whittier, CA 90602.

The parties did not request continuance of the presently scheduled mediation and, therefore, the mediation remains as scheduled for:

Mediation: July 15, 2015, at 9:30 AM, at the District's offices, located at WACSEP Legal Division, 8036 Ocean View Avenue, Whittier, CA 90602.

IT IS SO ORDERED.

DATE: July 02, 2015

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings