

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015070667

ORDER FOLLOWING PREHEARING
CONFERENCE AND CONTINUING
PREHEARING CONFERENCE AND
HEARING

On October 5, 2015, a telephonic prehearing conference was held before Administrative Law Judge Alexa J. Hohensee, Office of Administrative Hearings. Parent appeared on behalf of Student. Christine Wood, Attorney at Law, appeared on behalf of Los Angeles Unified School District. The PHC was recorded.

2. Continuance of PHC and Hearing. Student did not file a PHC statement. Parent's telephone connection for the PHC was poor, and the PHC was prematurely terminated when the connection was lost. Before Parent was lost from the call, she disagreed with District's characterization of the issues and indicated that she would provide District with a statement of issues, a list of witnesses and an evidence binder the next day. The ALJ was unable to contact Parent at either of Parent's numbers to continue the call. District requested a short continuance in order to obtain Student's clarification of issues and to amend its PHC statement in light of that clarification if necessary.

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).)

Student's clarification of the issues in dispute may result in a significant, unanticipated change in the status of the case. The hearing is continued for good cause shown, and shall take place on **November 3-5, 2015**, and continuing day to day thereafter, Monday through Thursday as needed, at the discretion of the ALJ. Unless otherwise ordered, the hearing shall begin at 9:30 a.m. the first day, and all other hearing days shall begin at 9:00 a.m.

The hearing shall take place at the offices of OAH, located at **15350 Sherman Way, Suite 300, Van Nuys, California 91406**. 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 was not properly notified of the hearing date or properly subpoenaed, as applicable.

No further continuances are contemplated for any reason given the age of Student's case.

3. Continued PHC. The telephonic PHC is continued to 10:00 p.m. on October 19, 2015. OAH will initiate the conference call.

4. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IT IS SO ORDERED.

DATE: October 7, 2015

/s/
ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings