

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

REDONDO BEACH UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015080678

ORDER FOLLOWING PREHEARING
CONFERENCE GRANTING
STUDENT'S MOTION TO CONTINUE
HEARING AND SETTING NEW
PREHEARING CONFERENCE AND
HEARING DATES

On Monday, November 2, 2015, a telephonic prehearing conference was held before Administrative Law Judge Ted Mann, Office of Administrative Hearings. Andrew Greer, Attorney at Law, appeared on behalf of Student. Cynthia Yount, Attorney at Law, appeared on behalf of Redondo Beach Unified School District. The PHC was recorded.

On October 29, 2015, Student filed a Motion to Continue the hearing. On November 2, 2015, District filed opposition to Student's request for continuance. Oral argument on Student's motion to continue was heard at the prehearing conference.

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).) The Office of Administrative Hearings (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 motion argues that District has failed to comply with Student's ongoing efforts to obtain information from Student's special education teacher and case manager needed to complete Student's independent educational evaluation, and that the absence of the information materially affects Student's ability to complete the independent educational evaluation and present evidence regarding remedies at hearing.

Here, Student has made diligent efforts to obtain the information she seeks from District. Whether Student is entitled to that information is a separate legal question not at issue in Student's request for continuance. However, Student has alleged several bases for the necessity of the information for hearing, including Student's ability to complete the independent educational evaluation and present evidence regarding remedies at hearing. As such, Student's motion for a continuance is found to be based on good cause. Student's request for continuance is granted.

Based upon discussion with the parties, the ALJ issues the following order:

1. Hearing Dates, Times, and Location. The hearing is continued and shall take place on Tuesday, January 26, 2016, and Wednesday, January 27, 2016, and continuing day to day, Monday through Thursday as needed at the discretion of the ALJ. The hearing shall begin each day at 9:00 a.m. and end at 4:30 p.m. with the exception of the first day of hearing, on which day the hearing shall begin at 9:30 p.m. and end at 5:00 p.m.

The hearing shall take place at the District's offices located at 1401 S. Inglewood Avenue, Redondo Beach, CA, 90278.

The parties shall immediately notify all potential witnesses of the continued hearing dates, and shall re-subpoena witnesses as 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.

2. Prehearing Conference Date and Time. The prehearing conference is continued and shall take place on Monday, January 4, 2016 at 10:00 a.m. The prehearing conference will be conducted by telephone as detailed in the Scheduling Order.

IT IS SO ORDERED.

DATE: November 02, 2015

/s/

TED MANN
Administrative Law Judge
Office of Administrative Hearings

