

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090723

ORDER GRANTING SECOND REQUEST FOR
CONTINUANCE AND SETTING PREHEARING CONFERENCE
AND DUE PROCESS HEARING

NOVEMBER 30, 2021

On November 30, 2021, the parties jointly filed with the Office of Administrative Hearings, referred to as OAH, a second request to continue this matter. The original complaint was filed on September 22, 2021. OAH granted a continuance on October 26, 2021, to allow the parties to mediate the matter on November 17, 2021. On November 30, 2021, the parties requested a second continuance to allow time for the school district to assess Student for eligibility for a residential placement. The hearing is scheduled for December 14, 15, and 16, 2021.

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. (Ed. Code, § 56505, subd. (f)(3); 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 or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The parties have requested a continuance of the prehearing conference to February 4, 2022 at 1:00 p.m., and the due process hearing to February 14, 15 and 16, 2022. The parties assert that they are hoping to complete a necessary assessment and hold an IEP on or before December 17, 2021, which will enable the parties to continue efforts to resolve the matter without a hearing.

The parties have established good cause for a second continuance based on their efforts to continue working toward resolution of the matter. However, the IDEA requires speedy resolution of due process matters. Therefore, any further continuance requests must be accompanied by a declaration establishing extraordinarily good cause for OAH consideration.

The request is granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference will be held on February 4, 2022 at 1:00 p.m.

Due Process Hearing will be held on February 15, 16 and 17, 2022. OAH does not schedule the first day of hearing on a Monday, as requested by the parties. The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, 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 their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or subpoena a witness. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with evidence of good cause why it was not possible to file the motion by that date.

IT IS SO ORDERED.

Adrienne L. Krikorian

Adrienne L. Krikorian
Administrative Law Judge
Office of Administrative Hearings