

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF
EDUCATION; TORRANCE UNIFIED
SCHOOL DISTRICT; LOS ANGELES
COUNTY DEPARTMENT OF MENTAL
HEALTH; CALIFORNIA DEPARTMENT
OF MENTAL HEALTH; CALIFORNIA
HEALTH AND HUMAN SERVICES
AGENCY.

OAH CASE NO. 2010110325

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

On December 17, 2010, counsel for the Los Angeles County Office of Education (LACOE) filed with the Office of Administrative Hearings (OAH) a Motion to Continue Due Process Hearing, with supporting declarations. In the motion, LACOE informs that a key witness will be unavailable to attend the due process hearing in this matter until after January 24, 2011.

On December 20, 2011, counsel for the California Health and Human Services Agency (CHHSA) and the California Department of Mental Health (CDMH) filed with OAH a Motion to Continue, with supporting declarations. In the motion, these state respondents also inform that a key witness who is on military duty will be unavailable to attend the due process hearing in this matter until after January 18, 2011.

On December 22, 2010, counsel for Student filed with OAH an Opposition to the motion for continuance brought by LACOE. On December 23, 2010, counsel for Student filed with OAH an Opposition to the motion for continuance brought by CHHSA and CMHD. In the Oppositions, Student contends that the unavailable witnesses are not relevant, and that Student is willing to stipulate to contested facts and thereby obviate the need for their testimony.

On December 23, 2010, counsel for LACOE filed with OAH a Reply to the Opposition submitted by Student.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing

is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332 .)

Each party in a special education administrative proceeding is entitled to due process which includes the right to call witnesses to testify at the hearing. Here, LACOE, CHHSA and CDMH have established that witnesses such parties wish to call at the due process hearing are unavailable on the initially scheduled hearing date in the matter. Good cause exists to grant a short continuance of the hearing dates in order to permit such witnesses to testify.

Accordingly, the motions for continuances are granted. All dates are vacated. This matter will be set as follows:

Mediation:	N/A
Trial Setting Conference:	N/A
Prehearing Conference:	01/26/2011, at 1:30 p.m.
Due Process Hearing:	02/01/2011; 02/02/2011; 02/03/2011; 02/04/2011.

IT IS SO ORDERED.

Dated: December 24, 2010

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings