

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012050612

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
HEARING DATES

On June 19, 2012, District filed a request to continue the hearing until August 9, 2012. Student forcefully opposed the motion and submitted multiple declarations under penalty of perjury stating that both of Student's attorneys were unavailable until November 2012. Specifically, Student's lead attorney stated that she was not available August 8 and 9, 2012 because she was a Commissioner for the City Ethics Commission. Student's attorney argued that the unavailability of District's counsel for a particular date is not good cause for a continuance because the attorney was associated with a law firm that had multiple attorneys. In addition, Student's parent stated that the family was out of town until late on August 8, 2012. The declarations also claimed that any delay was a severe financial hardship to Student's family. OAH denied District's request for a continuance.

The prehearing conference in this matter was held as scheduled on July 9, 2012, and this matter is now ready for hearing. Just prior to the close of business on July 9, 2012, the parties filed a joint request for a continuance on the ground that they had agreed in principle to a settlement, but required additional time to work out complex reimbursement issues. The parties are now requesting that the hearing start on August 8, 2012, and continue day-to-day until completed. The current request does not explain the discrepancy between the prior representations of Student's attorneys and parent, and the current request to continue the hearing to the exact dates Student formerly opposed. OAH interprets the current request, although not signed by Student's lead attorney, as a representation that Student's attorneys are available for the dates requested.

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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

Granted. All dates are vacated. Based on the filings of the parties, Student is representing that his attorneys are available and that if necessary, the hearing will proceed as scheduled on the dates selected. In light of the representations and arguments of Student's attorneys, the unavailability of any particular attorney from the law firm is not good cause for a further continuance. No further continuances are contemplated for any reason. This matter will be set as follows:

Due Process Hearing: August 8, 9, 13-16, 2012 at 9:00 AM

IT IS SO ORDERED.

Dated: July 10, 2012

/s/

---

RICHARD T. BREEN  
Presiding Administrative Law Judge  
Office of Administrative Hearings