

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SIMI VALLEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012090219

ORDER GRANTING DISTRICT'S
REQUEST FOR CONTINUANCE AND
SETTING PREHEARING
CONFERENCE AND DUE PROCESS
HEARING DATES

On October 15, 2012, District filed a Motion to Continue the prehearing conference and due process hearing dates in this matter (Motion). The Motion was based upon OAH unilaterally serving a series of scheduling orders, the most of recent of which was served on October 11, 2012, and unexpectedly advanced the prehearing conference date in this matter from October 3, 2012, to October 24, 2012. Additionally, the Motion was based upon District's counsel's unavailability on the due process hearing date OAH set for November 1, 2012. Student did not file any opposition to the Motion.

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).)

District has unsuccessfully met and conferred with Student to obtain Student's consent to the continuance.

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

Granted. The prehearing conference and due process hearing dates are continued. This matter will be set as follows:

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| Prehearing Conference: | November 28, 2012, at 1:30 p.m. |
| Due Process Hearing: | December 6, 2012, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed, at the discretion of the Administrative Law Judge. |

IT IS SO ORDERED.

Dated: October 19, 2012

/s/

ELSA H. JONES
Acting Presiding Administrative Law Judge
Office of Administrative Hearings