

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CHINO VALLEY UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2013050218

ORDER GRANTING JOINT REQUEST  
FOR CONTINUANCE AND SETTING  
PRE-HEARING CONFERENCE AND  
DUE PROCESS HEARING

Student filed a Request for Due Process Hearing (complaint) on May 8, 2013. On June 5, 2013, the parties obtained a continuance of the due process hearing from July 2, 2013, to August 5-8, 2013. Student filed an amended complaint on July 12, 2013. Following the amendment, a pre-hearing conference (PHC) was set for August 30, 2013, and a due process hearing (DPH) was set for September 5, 2013. The parties now request the PHC be continued to October 21, 2013, at 10:00 a.m. and the DPH be continued to November 4-7, 2013. Although this is an initial joint request for continuance following the filing of Student's amended complaint, and although OAH generally permits parties to stipulate to first continuances, the parties' requested dates result in the hearing occurring some six months after the case was first filed.

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. Further continuances are not contemplated. Some of the claims in the amended complaint were first filed May 5, 2013, rendering further continuances unreasonable. Further, the instant continuance is for a period of approximately 60 days, which is more than sufficient for settlement negotiations and/or hearing preparation. This matter will be set as follows:

Prehearing Conference: October 21, 2013, at 10:00 AM  
Due Process Hearing: November 4, 2013 at 1:30 PM and November 5-7, 2013 at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: August 28, 2013

/s/

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MARIAN H. TULLY  
Administrative Law Judge  
Office of Administrative Hearings