

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAREMONT UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013060518

ORDER GRANTING SECOND
REQUEST TO CONTINUE
MEDIATION, PREHEARING
CONFERENCE AND DUE PROCESS
HEARING.

On August 2, 2013, Parents on behalf of Student (Student) filed a request to continue the mediation, prehearing conference and due process hearing. This is the Students second request. Student's initial request for a continuance was granted because Student stated that he would not be available until August. Student requests the second continuance to retain counsel. On August 9, 2013, District filed a nonopposition to Student's request and proposed specific dates for the continuance. Student did not file an objection or otherwise oppose District's suggested dates.

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 unopposed request is granted to provide Student ample time to interview and retain counsel. This is a District case and the second continuance. The parties are notified by this Order that given the filing date of District's complaint, Student has had

ample time to retain new counsel, and that his failure to retain new counsel in advance of the following scheduled dates shall not be good cause for any further continuances. The parties are notified that they must be ready to proceed on the following scheduled dates, and that further continuances for any reason other than exigent circumstances will be disfavored. The continuance is effective the date of this Order. The dates are continued as follows:

Mediation: **October 2, 2013, 9:30 a.m.** through 4:30 p.m. (to be held with sibling case OAH Case No. 2013060516) at Claremont USD.

Prehearing Conference: **October 18, 2013 at 1 p.m.** (telephonic).

Due Process Hearing: **October 29 and 30, 2013, at 9:30 AM,** and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing will take place at **Claremont USD.**

IT IS SO ORDERED.

Dated: August 13, 2013

/s/

EILEEN COHN
Administrative Law Judge
Office of Administrative Hearings