

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

LOS ANGELES UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013060845

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

On August 20, 2013 at 11:01 a.m., Steven Figueroa, Education Advocate, acting on behalf of Victoria Baca, Student's original Education Advocate, filed a Request for Emergency Continuance with the Office of Administrative Hearings (OAH) representing that Ms. Baca's husband was hospitalized as of August 19, 2013 and is in critical condition. Later the same day, at 11:56 a.m., as additional grounds for seeking an emergency continuance, Mr. Figueroa represented to OAH that Student's mother is also in the hospital and has suffered a heart attack. Additionally, Mr. Figueroa represented that he too was recovering from heart surgery, but would be assisting Parent on behalf of Student in this matter if a continuance were granted.

The due process hearing (DPH) proceeded as previously set on August 20, 2013 at 1:00 p.m. with Administrative Law Judge, Sabrina Kong.

Patrick Balucan and Joelle Mervin, Attorneys at Law, represented the Los Angeles Unified School District (District) and appeared on District's behalf. District's Due Process Specialist, Jose Salas, and paralegal, Brittaney Salter, were also present.

Mr. Figueroa, Education Advocate, appeared on Student's behalf by telephone.

At hearing, Mr. Figueroa renewed his request for emergency continuance based on the illnesses of Ms. Baca's husband, Student's Mother, and himself as stated in his August 20, 2013 11:01 a.m. and 11:56 a.m. filings with OAH. Further, Mr. Figueroa stated that he is Student's new Education Advocate and needs time to familiarize himself with the case. District's counsel agreed to the emergency continuance, but reserved District's right to file a request for sanctions should Mr. Figueroa later fail to provide proof supporting the grounds for the emergency continuance request. District's counsel was instructed to file any motion or request for proof concerning Student's emergency continuance request with OAH. Additionally, Mr. Figueroa requested a formal mediation session with District. District's counsel declined a formal mediation session, but welcomed informal settlement discussions with Mr. Figueroa by telephone.

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).)

ALJ noted that neither parent, nor Ms. Baca participated in two pre-hearing conferences (PHC) held by OAH on July 15, 2013 and August 12, 2013, nor did either filed any PHC statements, all in violation of OAH procedural rules which require that each party shall file and serve, by facsimile transmission, PHC statements with OAH at least three business days prior to the PHC. However, based on Mr. Figueroa's representations and the facts set forth above, ALJ found good cause and granted the emergency continuance request and continued the PHC and DPH dates to those that were mutually agreeable to the parties as follows:

Prehearing Conference:	September 27, 2013 at 10:00 AM
Due Process Hearing:	October 8, 9 and 10, 2013 at 10:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

IT IS SO ORDERED.

Dated: August 20, 2013

/s/  
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SABRINA KONG  
Administrative Law Judge  
Office of Administrative Hearings