

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DOWNEY UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2013070920

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING DUE
PROCESS HEARING

On September 27, 2013, the parties filed their first joint request for continuance of the prehearing conference (PHC) and due process hearing (DPH).

On August 21, 2013, Student filed an Amended due process hearing request. OAH issued a scheduling order setting the matter as follows: mediation, September 24, 2013; PHC, October 7, 2013; and, DPH, October 15, 2013. The parties elected not to participate in the scheduled mediation.

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 first joint stipulated request for good cause and considered all relevant facts and circumstances. The request is:

Granted. All dates are vacated. This matter will be set as follows:

Mediation:

Not requested. [The parties may contact OAH to

reschedule the mediation, but are advised to provide OAH at least seven business days notice so that OAH has sufficient time to calendar an available mediator.]

Prehearing Conference: November 22, 2013, 1 p.m.

Due Process Hearing: December 3, 4, 5, 9:30 a.m., December 9, 2013, 1:30 p.m., and December 10, 11, and 12, 9:30 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. [Please be advised that the Administrative Law Judge has the discretion to determine whether all the requested dates are required, and may limit the number of hearing days.]

The continuance is effective the date of this Order.

IT IS SO ORDERED.

Dated: September 30, 2013

/s/

EILEEN M. COHN
Administrative Law Judge
Office of Administrative Hearings