

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LAS LOMITAS ELEMENTARY SCHOOL
DISTRICT.

OAH CASE NO. 2013080057

ORDER CONTINUING MATTER AND
SETTING PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On October 11, 2013, Student's counsel informed the Office of Administrative Hearings (OAH) that the parties had entered into a settlement agreement which required Parent to execute an individualized education program, prior to dismissal of the action. Student moved to vacate all dates and set this matter for a status conference. OAH will only vacated hearing dates and set status conferences on cases where the settlement is pending approval by the school district's board. Such is not the case here; however, Student has provided sufficient evidence to constitute good cause for a continuance.

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. This matter is continued and set as follows:

Prehearing Conference: October 21, 2013, at 1:00 PM
Due Process Hearing: October 29, 2013, at 9:30 AM, and continuing day
to day, Monday through Thursday, as needed at the
discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: October 11, 2013

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings