

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

GARDEN GROVE UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014040919

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
PREHEARING CONFERENCE AND  
DUE PROCESS HEARING

On April 28, 2014, Student, through counsel, filed with the Office of Administrative Hearings (OAH) a request to continue and reset the initially scheduled hearing dates in the case, based primarily upon the need to retain an expert witness to counter the District's issue that its assessment was appropriate. On April 29, 2014, counsel for the District filed with OAH an opposition to the request. On April 30, 2014, counsel for Student filed with OAH a reply to the opposition.

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. Here, Student should be allowed to retain an expert witness to address the issues in the District due process complaint, but the continuance should not extend into the summer as the District contends that Student should be exited from special education, and a decision on this issue should be decided before the beginning of the next school year. This matter will be set as follows:

Mediation: To be determined by the parties.  
Prehearing Conference: 06/09/2014, at 3:00 p.m.  
Due Process Hearing: 06/16/2014, at 1:30 p.m.; 06/17/2014; 06/18/2014;  
06/19/2014, and continuing day to day, Monday  
through Thursday, as needed at the discretion of the  
Administrative Law Judge.

IT IS SO ORDERED.

DATE: April 30, 2014

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TIMOTHY L. NEWLOVE  
Presiding Administrative Law Judge  
Office of Administrative Hearings