

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SOUTH PASADENA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012110590

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

On January 4, 2013, the Student's counsel, Student Rights Attorneys (SRA), filed a joint request for continuance of the prehearing conference and hearing dates in this matter to mutually agreed upon dates in the near future. Student filed his complaint on November 16, 2012 and this is the first request for a continuance since the initial issuance of the scheduling order on November 20, 2012, which set the prehearing conference (PHC) for December 31, 2013, and the hearing for January 10, 2013.

Administrative Law Judge Carla L. Garrett convened the PHC on December 31, 2012. ALJ Garrett was unable to reach the District and, therefore, held the PHC with Hamlet Yarianian, SRA Law Clerk. ALJ Garrett thereafter issued an Order following PHC, affirming the hearing date of January 10, 2013.

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).)

The joint request for a continuance was signed by SRA attorney Deborah L. Pepaj on December 18, 2012, and the District representative, Kendra Rose, on January 4, 2013. At the time of the PHC, Student was aware there was a pending joint agreement to continue. Therefore, SRA's expressed desire to proceed with the December 31, 2012 PHC, knowing that the parties had agreed upon new dates and that the District's offices were closed for the winter break, wasted OAH resources and the ALJ's efforts.

However, the parties did mutually agree to new dates, this is the first continuance request, and the District would otherwise be denied the ability to timely exchange documentary evidence and witness list before the presently scheduled January 10, 2013 hearing. Therefore, in consideration of all relevant facts and circumstances, good cause exists and the request is granted.

All dates are vacated and are continued, as follows:

Prehearing Conference: **March 4, 2013**, at 1:30 PM

Due Process Hearing: **March 11 and 12, 2013**, commencing at 1:30 p.m. on March 11 and 9:30 a.m. on all other days. (On Mondays, hearings begin at 1:30 p.m.) The hearing will take place at the District's offices located at **1020 El Centro Street, South Pasadena, CA 91030**. The hearing shall continue day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: January 04, 2013

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings