

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CUCAMONGA ELEMENTARY SCHOOL  
DISTRICT.

OAH CASE NO. 2012120778

ORDER GRANTING REQUEST FOR  
SECOND CONTINUANCE AND  
SETTING MED/PHC/HRG

On December 19, 2012, Student filed a Request for Due Process Hearing. Office of Administrative Hearings (OAH) set the hearing date as February 13, 2013. On January 15, 2013, the parties filed a first stipulated request for continuance, asking for hearing dates of May 13-16, 2013, which would result in a hearing over 90 days from the filing date. The reason given was that the parties had entered an interim agreement for pre-hearing assessments, and needed additional time to conduct the assessments and discuss the results. The continuance was granted by Order dated January 15, 2013, which stated “given the extraordinary length of the first continuance, further continuances are not contemplated.” On April 19, 2013, the parties filed a joint stipulation for a second continuance, seeking to push the hearing dates to June 17-19. The reason given was that there had been unspecified delays in choosing independent evaluators to conduct the assessments, and unspecified delays by the assessors, once chosen, in completing the assessments. It appears the assessments have not been completed, and cannot be completed prior to the current hearing dates due to District’s spring break impeding necessary observations.

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:

Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. The reasons for the delays have not been specified; therefore it cannot be determined whether the parties proceeded with reasonable diligence. Given the extraordinary length of the first continuance, and the lack of specificity regarding the causes of the delays, there does not appear to be good cause for further continuance.

IT IS SO ORDERED.

Dated: April 19, 2013

/s/

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JUNE R. LEHRMAN  
Administrative Law Judge  
Office of Administrative Hearings