

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013100950

ORDER DENYING REQUEST FOR
CONTINUANCE AND CONFIRMING
DATES

On August 7, 2014, the parties made their fourth joint request for continuance of the dates in this matter. Student filed a request for due process on October 28, 2013. The Office of Administrative Hearings (OAH) granted the parties initial joint request for continuance on November 19, 2013. On December 4, 2013, at mediation the parties entered into an interim agreement to conduct independent assessments and agreed to continue the dates in this matter a second time in order to complete the independent assessments, which the parties maintained would assist with the final settlement. On May 27, 2014, the parties filed a third joint stipulation to continue the hearing, claiming the assessments could not be timely completed due to the unavailability of the assessor and the Student's family due to medical and personal emergencies. The request was granted on May 27, 2014, with an order that no further continuances would be granted. On August 7, 2014, the parties filed a fourth request for continuance, claiming that the parties were in settlement negotiations but needed information from Student's educational records that could not be available until District's staff returned to work on August 11, 2014. The prehearing conference is scheduled for August 11, 2014 at 3:00 p.m., and the due process hearing for August 18-21, 2014.

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).)

This case is more than ten months old and has been continued three times, the last of which was granted with notice that no further continuances would be granted. The parties have not credibly explained why the information needed to finalize a settlement could not have been obtained before now, and why they need to continue the hearing set for August 18, 2014, if the only information needed to complete the settlement will be available on August 11, 2014. Nor has any evidence been offered that the matter has settled on terms subject to completion of a final settlement agreement.

Accordingly, the request to continue the hearing is denied for lack of a showing of good cause. All dates remain as scheduled.

IT IS SO ORDERED.

DATE: August 07, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings