

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

LINCOLN UNIFIED SCHOOL DISTRICT.

OAH Case No. 2014071052

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

On August 20, 2014, the Lincoln Unified School District filed a request to continue the dates in this matter on the grounds that it has a conflicting hearing in Student's sibling's case. On August 25, 2014, Parent, as Student's educational rights holder, filed an opposition. Parent did not state any grounds for opposing the request except that he felt a continuance should not be considered until after the mediation in this matter. The mediation has come and gone, and parties were not able to resolve the issue of the hearing dates amongst them.

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).) The Office of Administrative Hearings 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. This matter will be set as follows:

Prehearing Conference: November 21, 2014, at 10:00 AM
Due Process Hearing: December 2, 2014, 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.

DATE: August 29, 2014

/s/

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