

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LONG BEACH UNIFIED SCHOOL DISTRICT,	OAH Case No. 2014120720
LONG BEACH UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015010672 ORDER DENYING REQUEST FOR CONTINUANCE WITHOUT PREJUDICE

On October 20, 2015, the parties filed a joint request to continue the due process hearing date in this matter, without specifying a reason for the continuance.

On December 16, 2014, Student filed a Request for Due Process Hearing naming Long Beach Unified School District.

On January 16, 2015, District filed a Request for Due Process Hearing naming Student.

On February 4, 2015, OAH granted each party's separate motions to consolidate the cases and granted District's motion to continue the due process hearing date in the consolidated case.

On May 14, 2015, OAH granted a joint request for continuance of the due process hearing date.

On July 17, 2015, OAH granted a further joint request for continuance of the due process hearing date, to dates in October 2015.

On September 29, 2015, Student filed a request to file an amended complaint to add claims that arose after March 20, 2015; OAH granted the request and the Amended Complaint was deemed filed on October 2, 2015.

On October 20, 2015, the parties filed a joint request for continuance of the due process hearing date, seeking a continuance of approximately 60 days from the date set for hearing based on the October 2, 2015 filing of the Amended Complaint. The parties did not offer any explanation of the reason for the request.

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 without prejudice. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. Student's case has been pending for ten months and the dates the parties requested would have the matter proceed to hearing more than one year after the case was filed; District's case has been pending for nine months and the dates the parties requested would have the matter proceed to hearing one year after the case was filed. The parties failed to state any reason why the case cannot proceed on the currently scheduled date. The parties may submit a further request for continuance with an explanation of good cause.

IT IS SO ORDERED.

DATE: October 20, 2015

/s/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings

