

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT, LOS ANGELES COUNTY  
OFFICE OF EDUCATION AND  
CALIFORNIA DEPARTMENT OF  
EDUCATION

OAH CASE NO. 2009100740

ORDER GRANTING STUDENT'S  
REQUEST FOR CONTINUANCE AND  
MOTION TO AMEND

On December 4, 2009, Student moved to amend his due process hearing request (Complaint) to add Long Beach Unified School District as an additional party and to continue the matter which is currently set for hearing on December 10, 2009. On December 7, 2009, the Office of Administrative Hearings contacted the parties and was advised by each party that they did not oppose Student's motion. That same day, the California Department of Education filed written support for Student's motion and Los Angeles Unified School District filed a notice of nonopposition.

APPLICABLE LAW

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020.) In weighing motions for continuances in special education due process matters, the Office of Administrative Hearings (OAH) looks to California Rules of Court for guidance. Generally, continuances of matters are disfavored. (Cal. Rules of Court, 3.1332(c).)

A party may amend a due process hearing request notice either: if the other party consents in writing to the amendment and is given the opportunity to resolve the hearing issue subject to the amendment, or the hearing officer grants permission no later than five days before the due process hearing. (Ed. Code § 56502(e).)

## DISCUSSION

Good cause exists, and the ALJ to continue the matter so that Student can amend the pleading to include Long Beach Unified School District (LBUSD). Student maintains that he was informed after the prehearing conference that as of September 18, 2009, the Los Angeles Superior Court changed the designation of the same individual that for years has been his court-appointed responsible adult (RA) to surrogate, and that Student was not “parentless.” Student also represented that one parent resides within the boundaries of Long Beach Unified School District.

Student did not provide evidence supporting his contentions but at the pleading stage such evidence is not required. Student did not provide any documentation confirming the appointment and scope of the authority of Student’s surrogate parent and Student is required to include such documentation to the other parties as part of the required document exchange, and provide such documentation to the ALJ hearing the matter. Likewise, Student is expected to provide evidence of residency of Student’s parents. Student has represented that certain documentation relevant to this matter may be deemed confidential by statute. Student is required to obtain the authorization of the Los Angeles Superior Court, if required, to release and exchange documentation necessary to the determination of Student’s residency in this matter. The release of any and all relevant but confidential documentation to the parties or OAH in this matter shall be admitted under seal and document review shall be restricted to the parties and OAH. Relevant documentation, includes but is not limited to, the appointment of the responsible adult, the termination of the responsible adult appointment, the appointment of the surrogate, the address(es) of the responsible adult and surrogate, the identity and residence of Student’s parents as referenced in footnote 2 of Student’s motion.

## ORDER

1. The motion to continue is granted. All dates are vacated.
2. The motion to amend the Complaint to add Long Beach Unified School District is granted. Student shall have one week from the date of this order, December 15, 2009, to file and serve an amended Complaint adding Long Beach Unified School District and allegations related thereto. A new scheduling order shall be issued after the amended Complaint is filed.
3. If Student fails to timely serve and file an amended pleading, the matter shall proceed to trial on the current pleading on Thursday, December 17, 2009, at the time and location indicated on the prehearing conference order.

4. Student must make every effort to obtain necessary documentation in support of his residency claims, including obtaining an order from the Los Angeles Superior Court, if necessary, for the release of documents relevant to this proceeding, as further described above.

IT IS SO ORDERED.

Dated: December 08, 2009

/s/

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EILEEN M. COHN  
Administrative Law Judge  
Office of Administrative Hearings