

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MORENO VALLEY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015090340

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

On February 16, 2016, Student filed a third request to continue the dates in this matter with the Office of Administrative Hearings, representing that District did not oppose the request. OAH did not receive a response from District.

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. Student's counsel attached a declaration under penalty of perjury explaining that he has experienced a serious family health matter that has resulted in his unavailability, and inability to prepare for a hearing scheduled for March 8, 2016. Counsel has established good cause for a short continuance. However, Student's case was filed on August 31, 2015; Student filed an amended complaint on September 30, 2015. This case is almost six months old. OAH has granted two previous requests for continuance. Student's current request to continue the matter to May 26, June 1 and 2, 2016, is not reasonable. Accordingly, OAH

will grant a short continuance for good cause to accommodate Student's counsel's family emergency. OAH does not contemplate granting any further continuances.

This matter will be set as follows:

Mediation: Parties did not request mediation

Prehearing Conference: March 25, 2016 at 10:00 AM

Due Process Hearing: April 5-7, 2016, the first day starting at 9:30 a.m. and all other hearing days at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

The parties shall notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: February 24, 2016

DocuSigned by:
Adrienne L. Krikorian
ADRIENNE L. KRIKORIAN
Admin 3478616B5E1F466...
Office of Administrative Hearings