

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF  
EDUCATION.

OAH CASE NO. 2012010768

ORDER GRANTING SECOND  
REQUEST FOR CONTINUANCE AND  
SETTING MED/PHC/HRG

On April 26, 2012, the parties filed a second stipulated request for a continuance. The reason given was that OAH did not set an initial mediation date and that the dates asked for by the parties for hearing in the initial continuance request were not available. A review of the case file shows that OAH did not set an initial mediation because Student's attorney expressly stated in the complaint that "Petitioner asks no mediation be scheduled in this matter but that it proceed directly to due process hearing..." Consistent with this position, Student's attorney filed a first continuance request on February 21, 2012, with a check mark next to the statement "please cancel the mediation without resetting." When the parties requested mediation on March 29, 2012, they requested a Monday date, and were informed by OAH that mediations were not conducted on Mondays, but that OAH would schedule mediation on a mutually agreed date Tuesday through Thursday. The parties did not contact OAH until the instant continuance request was filed more than three weeks later.

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:

Granted. All dates are vacated. No further continuances are contemplated given the age of this matter. The parties had ample opportunity to request an earlier mediation and have had more than ample time to prepare for hearing. This matter will be set as follows:

Mediation:	May 8, 2012 at 9:30 AM
Prehearing Conference:	July 9, 2012 at 10:00 AM
Due Process Hearing:	July 16-18, 2012 at 9:00 AM

IT IS SO ORDERED.

Dated: April 27, 2012

/s/

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RICHARD T. BREEN  
Presiding Administrative Law Judge  
Office of Administrative Hearings