

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2012030072
CAPISTRANO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2012051009 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PHC/HRG

On June 8, 2012, the parties filed a stipulated request to continue all dates to mutually agreed dates. The reason given was to permit the parties additional time to attempt to discuss settlement of the District's filing, despite the inability of the parties to settle Student's filing.

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. Further continuances are not contemplated given the age of Student's case and that ample opportunity for settlement discussions will be permitted by the grant of this continuance. District is presumed to have wanted to go to hearing at the same time as Student's case based on District's request to consolidate. This matter will be set as follows:

Mediation:	Not Requested.
Prehearing Conference:	August 8, 2012 at 10:00 AM
Due Process Hearing:	August 22-23, 27-30, 2012 at 9:00 AM, unless otherwise ordered at the PHC.

IT IS SO ORDERED.

Dated: June 08, 2012

/s/

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