

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MONTEBELLO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012070503

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

On August 31, 2012, the parties filed a first stipulated request for a continuance of all dates that would result in the hearing going forward over 120 days from the initially calendared date. The reason given was that the parties would like to conduct assessments and attend an IEP team meeting in an attempt to settle the matter prior to hearing.

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 that the parties will have had ample time to conduct assessments and engage in settlement discussions prior to hearing. This matter will be set as follows:

Mediation: December 12, 2012 at 9:30 AM

Prehearing Conference: January 16, 2012 at 10:00 AM [NOTE: the date requested by the parties was a Tuesday, and OAH only conducts PHC's on Mondays and Wednesdays.]

Due Process Hearing: January 22-24, 28-31, 2013 at 1:30 PM the first day, 9:00 AM all other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: September 04, 2012

/s/

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