

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GARVEY SCHOOL DISTRICT,
ALHAMBRA UNIFIED SCHOOL
DISTRICT AND LOS ANGELES UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2012080536

ORDER GRANTING STUDENT'S
REQUEST FOR CONTINUANCE AND
SETTING MED/PHC/HRG

On December 21, 2012, Student and respondent Garvey School District (Garvey) filed a joint request to continue the dates in this matter to mutually agreed dates in the near future. The applicable timelines in this matter were reset on November 7, 2012, when the Office of Administrative Hearings (OAH) granted Student leave to file an amended due process hearing request. This is the first request for continuance since new dates were set.

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).)

Respondents Los Angeles Unified School District (LAUSD) and Alhambra School District (Alhambra) have not executed the joint request for continuance, but the declaration of Student's counsel, Tania Whiteleather, states that the representative for LAUSD and counsel for Alhambra agreed to the dates circulated among the parties for continuance by

email, but LAUSD's representative went on holiday leave prior to executing the joint request form. Ms. Whiteleather indicates that Alhambra's attorney, Cole Dalton, has signed the joint request form, although Ms. Cole's signature is not on the form filed with OAH. Nonetheless, Ms. Whiteleather attaches a copy of the email chain among counsel, including Ms. Cole, agreeing to the dates, and establishes an agreement among Student, Garvey, Alhambra and LAUSD to the dates proposed in the joint request.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

Granted. All dates are vacated. This matter will be set as follows:

Mediation:	February 6, 2013 at 9:30 AM
Prehearing Conference:	February 13, 2013 at 1:30 PM
Due Process Hearing:	February 26-28, 2013 at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: December 21, 2012

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings