

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

WISEBURN ELEMENTARY SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013030977

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

On April 12, 2012, Student filed a request for a continuance to a prehearing conference on May 29, 2013 and hearing on June 4, 2013 on the ground that Student's parents wanted additional time to try to consult with an attorney prior to hearing. A day earlier, a request for continuance by Student had been denied for failure to state a good cause reason and failure to propose new dates. On April 15, 2013, District filed an opposition, in which it mainly argued that OAH should treat the new continuance request as a request for reconsideration, that District is entitled to a speedy determination, and that Student could have, but did not seek legal representation starting in January of 2013 when District first sought parent's consent to the assessment plan at issue in this matter. In its opposition, District did not state that it was unavailable on the dates requested.

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. The motion was not a request for reconsideration, and good cause exists to provide a brief continuance for parents to seek counsel. However, further continuances are not contemplated for any reason. Student's parents will have had more than adequate time to seek counsel from the date District first sought the assessments, through the continued hearing dates set forth below. Moreover, the issue presented is not complex, and District has indicated it is ready to proceed, such that any attorney hired by parents is expected to proceed on the dates set forth below. This matter will be set as follows:

Mediation:	If parties are interested in mediation, they should contact OAH with a mutually agreed Tuesday through Thursday date. OAH requires more than one week's notice to accommodate requested mediation scheduling, and is dark for training April 29-May 1.
Prehearing Conference:	May 29, 2103 at 10:00 AM
Due Process Hearing:	June 4-5, 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: April 15, 2013

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