

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

VENTURA UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2013040910

ORDER GRANTING JOINT REQUEST  
FOR CONTINUANCE AND SETTING  
PREHEARING CONFERENCE AND  
DUE PROCESS HEARING

Student filed a Request for Due Process Hearing on April 23, 2013. On June 5, 2013, Student was granted leave by the Office of Administrative Hearings (OAH) to file a first amended complaint for mediation and due process hearing. On June 7 2013, OAH issued a Scheduling Order on the first amended complaint. On July 11, 2013, the parties jointly filed an initial request to continue the dates set in the June 7, 2013 Scheduling Order. On July 12, 2013, OAH issued an order granting the joint request and setting a prehearing conference on September 16, 2013 and a due process hearing on October 1, 2, 3, 7, 8 and 9, 2013, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

On August 28, 2013, the parties filed a second joint request to continue the dates in this matter to agreed dates based upon their inability to complete ongoing settlement discussions due to the unavailability of Student's counsel. Student's counsel has been unavailable while she tends to an illness in her family. The parties agree there is no prejudice due to this continuance as the issues for hearing pertain to the 2011-2012 school year and will have no impact on Student's current educational program. Although, this is good cause for a continuance, further continuances are not contemplated because the parties will have had more than enough time to negotiate and prepare for 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. No further continuances are contemplated for any reason. This matter will be set as follows:

Prehearing Conference:	November 1, 2013 at 10:00 a.m.
Due Process Hearing:	November 12, 2013, at 1:30 p.m., November 13-14, 2013 at 9:00 a.m., November 18, 2013 at 1:30 p.m., November 19-20, 2013, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. (November 12 and 18, 2013 shall begin at 1:30 p.m. because OAH sets Tuesday hearings following a holiday, and Monday hearings at 1:30 p.m.)

IT IS SO ORDERED.

Dated: August 28, 2013

/s/

---

MARIAN H. TULLY  
Administrative Law Judge  
Office of Administrative Hearings