

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2013060220

v.

MILPITAS UNIFIED SCHOOL DISTRICT,

MILPITAS UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 20130401051

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING JOINT REQUEST
FOR CONTINUANCE AND SETTING
MEDIATION, PREHEARING
CONFERENCE AND HEARING

On July 17, 2013, the parties filed a joint request to continue the prehearing conference (PHC) and due process hearing dates in this matter, and to set a mediation date. The reason given for this request is that Student is undergoing assessments that will need be completed, and reviewed at an Individualized Education Program team meeting scheduled for October 29, 2013, and the parties may also wish to engage in mediation following that meeting.

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).) The Office of Administrative Hearings (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. This matter will be set as follows:

Mediation:	November 5, 2013 at 9:30 a.m.
Prehearing Conference:	November 19, 2013 at 1:00 a.m. ¹
Due Process Hearing:	December 9-12, and 16-19, 2013 at 1:30 a.m. on December 9, and 9:00 a.m. thereafter, and continuing day to day, Monday through Thursday, as needed, at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: July 17, 2013

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

¹Parties asked that the PHC begin at 1:30 p.m. Effective July 1, 2013, OAH changed its calendaring schedule for PHC's and now holds them on Mondays and Fridays with starting times of 10:00 a.m., 1:00 p.m., and 3:00 p.m. Therefore, the starting time for the PHC will be 1:00 p.m.