

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NORWALK-LA MIRADA UNIFIED  
SCHOOL DISTRICT.

OAH CASE NO. 2013070486

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

On December 20, 2013, the parties filed a third request for continuance. Prior to their September 3, 2013, second request for a continuance they had entered an agreement to conduct independent educational evaluations (IEE's) of Student. That continuance sought an additional 120 days to complete assessments and conduct an IEP team meeting. The parties jointly requested the third continuance because, notwithstanding their diligence, the private assessor retained could not complete the assessments within the anticipated timeframe, and additional time is needed to complete assessments, hold an IEP team meeting and mediate their dispute.

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. However, no further continuances are contemplated for any reason, including failure to complete the IEE's. The parties are being granted more than adequate time given that under the IDEA, and this third continuance is being granted because they only requested a very short continuance in their first request, their second request for a 90 day continuance was for good cause, and their third request was necessitated because, despite their diligence, the assessment was not completed and an IEP team meeting could not be held within the anticipated timeframe. This matter will be set as follows:

Mediation:	February 11, 2014 at 9:30 a.m.
Prehearing Conference:	February 28, 2014 at 10 a.m.
Due Process Hearing:	March 11-13, 2014, first day, 9:30 a.m. other days, 9:00 a.m. and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: December 20, 2013

/s/  
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EILEEN COHN  
Administrative Law Judge  
Office of Administrative Hearings