

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN BERNARDINO CITY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2013080560

ORDER GRANTING SECOND
REQUEST FOR CONTINUANCE [NO
FURTHER] AND SETTING
PHC/HEARING

On November 19, 2013, the parties filed second stipulated request for a second continuance of just over 90 days, which will result in a hearing date more than 150 days after the originally set hearing date. The reason given was the parties agreement to conduct assessments that could result in settlement. Mediation was not requested at this time.

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, especially failure to complete agreed upon assessments or failure to attend mediation. The parties will have had more than ample time for settlement discussions following the grant of this second continuance. This matter will be set as follows:

Mediation:	Not requested.
Prehearing Conference:	February 28, 2014 at 1:00PM
Due Process Hearing:	March 10-13, 2014 at 1:30 PM first day, 9:30 AM other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

[NOTE- OAH does not calendar hearings on Fridays, as requested.]

IT IS SO ORDERED.

Dated: November 20, 2013

/s/

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