

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASO ROBLES JOINT UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2015010751

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

On May 21, 2015, the parties jointly filed a request to continue the mediation and due process hearing dates in this matter. This case was filed on January 21, 2015. The case was continued on March 4, 2015, at the request of the parties, to June 2, 3, 4, and 9, 2015. The parties have entered into an interim agreement and now move for a further continuance so that the assessment can be completed, an individualized education program team meeting be held and so the parties can participate in mediation. The parties have asked for a continuance of the hearing until August 31, 2015.

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 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).)

Granted in part. The parties have shown good cause for a short continuance, but not for a continuance of almost 90 additional days. Continuances are not automatic and the Individuals with Disabilities Education Act requires speedy resolution of cases once

filed. Here, OAH is concerned with the delay of 120 days from the filing of the matter to the parties reaching an interim agreement that now requires a further delay, and goes against the speedy resolution mandate of the IDEA. If parties wish to pursue interim agreements which require continuances, the parties are cautioned to do so much earlier than 120 days after the case is filed and after one continuance has already been granted. As to the parties request for a continuance so they can mediate, two separate mediations have been scheduled and then cancelled by the parties. While the IDEA encourages parties to participate in mediation, serially cancelling mediations and then asking for a continuance to allow for mediation does not constitute good cause. Accordingly, good cause has been shown for a short continuance, and **no further continuances will be granted without a showing of substantial good cause**. All dates are vacated. This matter will be set as follows:

Mediation:	June 25, 2015, at 9:30 a.m.
Prehearing Conference:	July 10, 2015, at 1:00 p.m.
Due Process Hearing:	July 21, 2015, at 9:30 a.m., July 22-23, 2015 at 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.

DATE: May 22, 2015

/s/

MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings