

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2016040259

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

On May 11, the parties filed a joint request to continue the dates in this matter with the Office of Administrative Hearings. It was the first request for a continuance filed in this matter.

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 in part and denied in part. All dates are vacated. However, the parties asked that the due process hearing be set more than 90 days after the initial date set for hearing in this matter, June 1, 2016. They asked that the PHC be set for September 12, 2016, and the due process hearing be set for September 19-22, 2016. The parties did not explain

the basis for the request to set the matter more than 90 days after the original date set for hearing. . Accordingly, this matter will be set as follows:

Mediation: June 7, 2016, at 9:30 a.m.

Prehearing Conference: August 15, 2016, at 1:00 p.m.

Due Process Hearing: August 23-25, 2016, beginning at 9:30 a.m. on August 23, 2016, at 9:30 a.m. and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge if the hearing is not completed on August 25, 2016..

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing “good cause” to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: May 13, 2016

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings