

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

POMONA UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011070914

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
MED/PHC/HRG

On October 27, 2011, the parties submitted a second stipulated request for a continuance on the ground that assessments that the parties wished to conduct for purposes of settlement negotiations and an IEP could not be conducted. The parties also contend that a continuance should be granted because Student is incarcerated and wants to participate in proceedings. The allegations in the due process complaint are exactly the same as those filed by Student in February of 2011020535 in OAH case number 2011020535. The hearing in case number 2011020535 had been continued on the same grounds now asserted in the instant request, i.e., that the parties could not complete assessments that they thought relevant for settlement negotiations and an IEP team meeting. Student ultimately withdrew the due process complaint in OAH case number 2011020535 in July of 2011, when OAH would not grant further continuances. Student immediately filed the same due process hearing request again (by crossing off the old dates and refile), in order to obtain a new case number. The complaint still concerns Mother's rights to educational records or an IEE in the past, or allegations of denials of a FAPE prior to January of 2011.

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); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

OAH has reviewed the request for good cause and the request is:

Granted. All dates are vacated. However, no further continuances are contemplated. The parties have had more than ample opportunity under two different case numbers to settle this matter prior to hearing. Assessments conducted in the present are not particularly relevant to document production, IEE and FAPE claims that date back years prior to the date of filing. This matter will be set as follows:

Mediation: January 4, 2012 at 9:30 AM
Prehearing Conference: January 23, 2012 at 10:00 AM
Due Process Hearing: February 6-9, 2012 at 1:30 PM first day, 9:00 AM
after.

IT IS SO ORDERED.

Dated: November 02, 2011

/s/

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