

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012030057

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

On May 9, 2012, District filed a request to continue the hearing on the ground that it and its counsel had a conflict due to another hearing on the same dates. District requested that the hearing be scheduled May 28-31, 2012 (although May 28, 2012 is a holiday), did not ask that the PHC be moved, and requested mediation on May 16, 2012 at 1:00 P.M. Student opposed, stating counsel had relied on the earlier established dates, and was now only available on May 30, 2012. Student also did not seek to move the PHC date and requested mediation at the same date and time as District.

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. Both parties shall file PHC statements and be ready to proceed as scheduled to the PHC, as neither party addressed PHC scheduling in their filings. This matter will be set as follows:

Mediation: May 16, 2012 at 1:00 PM to 5:00 PM
Prehearing Conference: May 16, 2012 at 10:00 AM [No change.]
Due Process Hearing: May 30, 2012 at 9:00 AM

AT THE PHC, BOTH PARTIES SHALL BE FULLY PREPARED TO DISCUSS AVAILABLE DATES FOR HEARING. IT IS EXPECTED THAT BOTH COUNSEL WILL COOPERATE IN OBTAINING MUTUALLY AGREED DATES AFTER MAY 30, 2012.

IT IS SO ORDERED.

Dated: May 11, 2012

/s/

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