

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

STUDENT,

v.

BALDWIN PARK UNIFIED SCHOOL
DISTRICT AND COVINA-VALLEY
UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2012031078

BALDWIN PARK UNIFIED SCHOOL
DISTRICT AND COVINA-VALLEY
UNIFIED SCHOOL DISTRICT,

v.

PARENT AND STUDENT.

OAH CASE NO. 2012070228

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PHC/HRG

On October 30, 2012, the parties filed a joint request for continuance of the prehearing conference and hearing dates in these consolidated matters to mutually agreed dates in the near future. Student's original due process hearing request (complaint) was filed on March 27, 2012, but a third amended complaint was permitted by OAH order dated September 28, 2012, and the PHC is currently scheduled for November 14, 2012 with the hearing set to begin November 21, 2012.

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).)

The parties have submitted a joint waiver of mediation and request for continuance of PHC and hearing dates on these consolidated matters, stating that the parties have been unable to resolve the matter at two prior mediation sessions, but have mutually agreed upon their proposed dates for PHC and trial in January 2013. Good cause for the requested continuance of approximately 60 days is established by the unavailability of Student's counsel, who is engaged in other hearings and a jury trial until mid-January, and of counsel for both respondents on the dates currently set. All parties have represented that their counsel are available on the dates of the requested PHC and six-day hearing.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

Granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference: January 14, 2013 at 1:30 PM

Due Process Hearing: January 22-24 and 28-30, 2013, at 1:30 PM on January 22, 2013, and 9:30 AM on all other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

[NOTE: (1) In light of the age of the original filings and the repeated inability of the parties to resolve this dispute informally, no further continuances are contemplated.

(2) The parties have stipulated that the hearing will begin at 1:30 PM, on January 28, 2013, however, the parties should discuss this with the hearing ALJ at the time of the PHC]

IT IS SO ORDERED.

Dated: October 31, 2012

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings