

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012060243

v.

BAKERSFIELD CITY SCHOOL DISTRICT,

BAKERSFIELD CITY SCHOOL DISTRICT,

OAH CASE NO. 2012080075

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING REQUEST FOR
CONTINUANCE OF PREHEARING
CONFERENCE AND DENYING
REQUEST FOR CONTINUANCE OF
DUE PROCESS HEARING

On September 4, 2012, the parties filed a joint request with the Office of Administrative Hearings (OAH) to continue the dates in this matter based upon the parties' request to participate in a second mediation that the parties assert will be able to resolve this matter. This matter is presently scheduled for a Prehearing Conference (PHC) for September 5, 2012, at 1:30 p.m., and due process hearing (hearing) for September 17 through 20, 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).)

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

Granted as to PHC only. The parties established good cause for a brief continuance of PHC to continue settlement discussions. The PHC will be set as follows:

Prehearing Conference: September 7, 2012 at 1:30 PM

Denied as to the hearing dates. The parties did not provide an adequate explanation as to the need for a second mediation or that a delay in the hearing will permit the parties to settle this matter as the parties have already participated in mediation, and the District informed OAH on August 29, 2012, that the parties had reached an agreement that needed only to be memorialized in writing. Accordingly, the parties did not establish good cause to continue the hearing dates and the hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Dated: September 5, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings