

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012060910

ORDER GRANTING MOTION TO
CONTINUE AND SETTING NEW
MED/PHC/DPH DATES

On August 1, 2012, the parties filed a joint request to continue the dates in this matter. This is the parties' initial continuance request.

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 state that a continuance of more than 90 days is warranted because they have reached an interim agreement under which the District has agreed to assess Student. The length of the continuance is to permit completion of the assessment and because the dates selected are the first available to both parties. OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The parties have presented good cause for the requested continuance and their request is:

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

Mediation: October 25, 2012, at 9:30 a.m.

Telephonic Prehearing
Conference: November 19, 2012, at 10:00 a.m.

Due Process Hearing: December 4-6, 2012, starting at 9:30 a.m. on
December 4 and at 9:00 on all other days, unless
otherwise ordered.

IT IS SO ORDERED.

Dated: August 2, 2012

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings