

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. 2012080813

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
PHC/HRG – NO FURTHER  
CONTINUANCES

On December 4, 2012, the parties filed a second stipulated request for a continuance. The reason given was that the parties, as part of settlement negotiations, desired to have the Student assessed by a mutually agreed assessor. No assessor had been identified as of the date of the motion.

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. However, given the age of this matter and the amount of time the parties will have had to engage in settlement negotiations and/or preparation, further continuances for any reason are not contemplated. In particular, the parties should be on notice that failure to complete the desired assessments in the approximately 90 days remaining prior to hearing will not be considered good cause for further continuances. Similarly, the parties only requested two hearing days, which is an unrealistic estimate given the “child find” allegation in the complaint. Accordingly, OAH has added additional hearing days. It is not good cause for future continuances that the parties are either unavailable on the current dates, or unavailable to continue the hearing day to day, Monday through Thursday if additional hearing time is needed. This matter will be set as follows:

Mediation:	N/A
Prehearing Conference:	March 11, 2012 at 10:00 AM
Due Process Hearing:	March 18-21, 2012 at 1:30 PM the first day, 9:30 AM other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: December 04, 2012

/s/

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