

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OXNARD UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2012110054

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

On December 13, 2012, the parties filed a motion to reconsider a prior denial of a request for continuance. The prior request had been denied because contrary to long-established OAH procedures, and the directions on the continuance request form used, the parties had submitted a first request for a continuance of 120 days without providing any good cause reason. The motion to reconsider was supported by evidence demonstrating school staff unavailability on the current dates, as well as continuing conduct of assessments under an assessment plan dated November 14, 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. All dates are vacated. However, further continuance requests are not contemplated, given the extraordinary length of the first continuance. The parties have more than ample time for assessments and settlement negotiations given the length of the continuance. This matter will be set as follows:

Mediation: February 12, 2013 at 9:30 AM

Prehearing Conference: April 8, 2013 at 1:30 PM

Due Process Hearing: April 15-18, 2013 at 1:30 PM 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 14, 2012

/s/

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