

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BELLFLOWER UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013010295

ORDER GRANTING PARTIES'
SECOND JOINT REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING

On February 7, 2013, the parties filed a joint request to continue the prehearing conference and hearing dates in this matter. This is the second request for a continuance since the filing of the complaint on January 9, 2013. Administrative Law Judge (ALJ) Richard T. Breen previously granted the parties' first joint request for continuance, issuing an order setting the mediation for 9:30 a.m., March 19, 2013, prehearing conference for April 22, 2013, and hearing for May 6 through 9, 2013.

The February 1, 2013 order acknowledged that the continued hearing dates were not the dates requested by the parties, because of previously scheduled mandatory ALJ training. ALJ Breen indicated that if the parties were unavailable for the selected hearing dates, the parties should submit another joint request for agreed upon hearing dates. In their February 7, 2013 joint request, the parties state the District is unavailable and request the hearing be set for the agreed upon dates.

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 continuance and considered all relevant facts and circumstances, including the parties' collaboration in agreeing upon continued dates. Good cause existing therefore, the request is granted.

The PHC and hearing dates are set as follows:

Prehearing Conference: **May 13, 2013, at 10:00 AM.**

Due Process Hearing: **May 20, 21, 22 and 23, 2013** 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. The hearing will take place at the District's offices, located at **16703 South Clark Ave., Bellflower, CA 90706.**

NOTE: The mediation remains scheduled for **March 19, 2013, at 9:30 AM.**

IT IS SO ORDERED.

Dated: February 08, 2013

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings