

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SOUTH PASADENA UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2013020084

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

On March 18, 2013, five minutes prior to the start of the scheduled prehearing conference, the parties filed a stipulated request to continue all dates. District simultaneously filed a notice of representation. The PHC went forward before ALJ June R. Lehrman, and was continued by the ALJ when District failed to appear.

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, the parties and their attorneys are cautioned that OAH will consider cost sanctions if the parties, through lack of diligence, cause OAH to expend ALJ time and clerical resources without good cause. The parties should also be aware that because the PHC went forward due to District's last-minute filing and District's failure to participate in the PHC, any future preemptory challenge to ALJ June R. Lehrman will be deemed untimely.

This matter will be set as follows:

Mediation: April 9, 2013 at 9:30 AM

[NOTE DATE CHANGE: OAH does not calendar mediations on Mondays as requested. Counsel for both sides should familiarize themselves with OAH scheduling practices.]

Prehearing Conference: April 22, 2013 at 1:30 PM

Due Process Hearing: May 6-9, 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.

[NOTE DATE CHANGE: OAH is dark the week of April 29, 2013 for mandatory training, a fact noted prominently on OAH's website and provided to the special education community as a whole via our email list.]

IT IS SO ORDERED.

Dated: March 18, 2013

/s/

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