

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2013050568

ORDER GRANTING SECOND
REQUEST FOR CONTINUANCE AND
SETTING
MEDIATION/PHC/HEARING

On July 16, 2013, the parties filed a stipulated request for a second continuance. The reason given was that Student now wished to participate in mediation and contrary to Student's opposition to the first continuance, Student was no longer claiming prejudice by a delay in the hearing.

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. Good cause was shown by the willingness of both parties to participate in mediation. Further continuances are not contemplated. This matter will be set as follows:

Mediation: August 14, 2013 at 9:30 AM

Prehearing Conference: August 26, 2013 at 10:00 AM

Due Process Hearing: September 9-12, 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 unable to grant the hearing dates requested due to the large number of hearings scheduled the first week of September.]

IT IS SO ORDERED.

Dated: July 16, 2013

/s/

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