

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PALOS VERDES PENINSULA UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2014051221

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING

On September 29, 2014, the date scheduled for the prehearing conference, the parties filed a stipulated request to continue the hearing on the amended complaint in this matter for over 90 day. The reason given was that the parties wished to complete assessments agreed to as part of settlement negotiations. The parties requested hearing dates on Fridays, which OAH does not set, and on the date of a national holiday.

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, no further continuances will be granted for any reason, including failure to complete the agreed upon assessments. This matter was initially filed in May of 2014, such that even despite the amended complaint, further continuances would be unreasonable. Similarly, a continuance of the length is more than adequate to conduct any type of assessment being done for purposes of negotiation. It is not good cause to continue the hearing that Student and/or Student's attorney failed to request IEE's until after requesting a hearing subject to the IDEA's 45-day hearing timeline. This matter will be set as follows:

Mediation:	N/A
Prehearing Conference:	January 5, 2015 at 3:00 PM
Due Process Hearing:	January 12-15, 2015 at 1:30 PM first day, 9:00 AM other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

[NOTE: OAH does not calendar hearings on Fridays as requested. January 19, 2015 is the Martin Luther King, Jr. holiday, and all state offices are closed. Additional, continuous Monday through Thursday hearing dates will only be added if determined to be warranted at the prehearing conference.]

IT IS SO ORDERED.

DATE: September 29, 2014

/s/

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