

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NORWALK-LA MIRADA UNIFIED  
SCHOOL DISTRICT.

OAH CASE NO. 2014110578

ORDER GRANTING JOINT REQUEST  
FOR CONTINUANCE AND SETTING  
MEDIATION, PREHEARING  
CONFERENCE AND HEARING

Student filed this complaint on November 7, 2014. The Office of Administrative Hearings issued a scheduling order on November 19, 2014, setting a mediation on December 16, 2014, a prehearing conference on December 29, 2014, and the hearing to begin on January 6, 2015.

On December 10, 2014, Norwalk-Mirada Unified School District submitted a letter dated November 19, 2014, stating that the parties “waive the resolution session in this matter.” Included with the letter was a request for a continuance requesting postponing the mediation until January 6, 2015, and the hearing to January 22, 2015.

APPLICABLE LAW AND DISCUSSION

A school district must convene a meeting to discuss the issues raised in a due process complaint in order to attempt to resolve the dispute. (34 C.F.R. § 300.510 (a)(1), (2).) This meeting is commonly known as a resolution session. A resolution session need not be held if the parent and school district agree in writing to waive it (*Id.* at § 300.510 (a)(3)(i)) or if the parent and school district agree to use mediation instead of a resolution session (*Id.* at § 300.510 (a)(3)(ii)). If the parties agree to waive the resolution session, the 45-day timeline for a due process hearing begins the day after the waiver. (*Id.* at § 300.510(c)(1).)

When the parties agree in writing to waive a resolution session, OAH will move forward the dates for mediation, prehearing conference, and hearing to accommodate the beginning of the 45-day timeline for hearing. On November 19, 2014, the parties signed a written waiver of the resolution session. Under 34 Code of Federal Regulations part 300.510(c)(1), the timeline to issue a decision began on November 19, 2014, and the decision must be issued by January 3, 2015. However, the parties requested to continue the mediation and hearing dates to after this deadline.

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).)

This is the first request for a continuance and the continuance is fairly short. As a result, good cause is found and the continuance is granted. Operational needs do not permit the requested dates to be granted. This matter is scheduled as follows:

Mediation	January 8, 2015, at 9:30 a.m.
Prehearing Conference	February 9, 2015, at 3:00 p.m.
Hearing	February 18 - 19, 2015, and continuing day to day Tuesday through Thursday as necessary and ordered by the ALJ

DATE: December 10, 2014

/s/  
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JUDITH A. KOPEC  
Division Presiding Administrative Law Judge  
Office of Administrative Hearings