

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

AVERSON CHARTER SCHOOL.

OAH CASE NO. 2012060432

ORDER GRANTING FIRST REQUEST
FOR CONTINUANCE AND SETTING
PHC/HRG

On July 3, 2012, the parties filed a stipulated first request to continue the PHC and hearing to mutually agreed dates. The request asked for the PHC to occur after the hearing, and it is assumed this was in error.

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. This matter will be set as follows:

Mediation: Not requested.

Prehearing Conference: October 15, 2012 at 1:30 PM

Due Process Hearing: October 22-25, 2012 at 1:30 PM the first day, and 9:00 AM after. [NOTE CHANGE – The parties asked for a single day. However, when seeking continuances, OAH prefers that the parties request the number of hearing days they expect the matter to take. Accordingly, because all Monday hearings start at 1:30 PM, additional days were added by OAH.]

IT IS SO ORDERED.

Dated: July 03, 2012

/s/

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