

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ONTARIO-MONTCLAIR SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013010157

ORDER GRANTING DISTRICT'S
REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING
CONFERENCE AND HEARING

On February 8, 2013, the District filed a request to continue the mediation and change one day of hearing in this matter. This is the second request for a continuance since the filing of the complaint on January 7, 2013. On February 1, 2013, Administrative Law Judge (ALJ) Richard T. Breen granted the parties' joint request for continuance, issuing an order setting the mediation for 9:30 a.m., February 13, 2013, prehearing conference for February 25, 2013, and hearing for March 12 through 14, 2013.

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).)

In its February 8, 2013 request, the District states that Parent had a family emergency and requested that the mediation be continued to the next week. District further stated that it had a conflict on March 12, 2013, and requested the hearing dates be changed to be March 13 and 14, 2013.

OAH has reviewed the request for continuance and considered all relevant facts and circumstances, including the parties' collaboration in agreeing upon continued dates. Good cause existing therefore, the request is granted.

The mediation and hearing dates are set as follows:

Mediation: **February 20, 2013, at 10:00 AM.**

Prehearing Conference: **February 27, 2013, at 1:30 PM.**

Due Process Hearing: **March 13 and 14, 2013** at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing will take place at **West End SELPA, 8265 Aspen Avenue, Suite 200, Rancho Cucamonga, CA 91730**

IT IS SO ORDERED.

Dated: February 08, 2013

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings