

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SYLVAN UNION SCHOOL DISTRICT.

OAH Case No. 2014010229

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

On August 25, 2014, the parties filed a request to continue the dates in this matter on the grounds that they have been unable to complete assessments of Student pursuant to an interim agreement. This matter was filed on January 6, 2014, and has previously been continued.

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).) The Office of Administrative Hearings 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. On April 1, 2014, the parties entered into an interim agreement. In consideration for the time it would take the parties to follow through with the terms of the agreement and complete the necessary assessments of Student, OAH granted the parties a lengthy continuance. Now the parties seek a continuance that would put this matter into

November 2014, and a written decision would likely issue approximately one year from the date of filing of the complaint. OAH would not normally consider further continuance of this matter. However, Student's medical condition and disability are of such a severe nature, that the facts of this case establish good cause for a further continuance.¹ The parties' request is granted and this matter is set as follows:

Mediation:	September 25, 2014, at 9:30 AM
Prehearing Conference:	November 10, 2014, at 10:00 AM
Due Process Hearing:	November 17 – 20, 2014, starting at 1:30 PM on November 17, 2014, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: August 27, 2014

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings

¹ While the continuance is being granted, OAH notes that the parties were aware as early as July 2014 that they may not be able to timely complete assessments. The parties are encouraged to file requests for continuances as early as possible.