

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2014080858

ORDER GRANTING SECOND
REQUEST FOR CONTINUANCE [NO
FURTHER] AND SETTING
MEDIATION, PREHEARING
CONFERENCE AND HEARING

On September 22, 2014, the parties filed a second request for a continuance. The parties' first continuance request had been granted by OAH on September 17, 2014, to the mediation date selected by the parties. However, because the parties requested hearing dates when OAH had publicly announced it was closed, the parties were provided the next available hearing dates. This second request also requests hearing dates on a date OAH is closed for a state holiday. The request without explanation seeks a different mediation date than requested in the first continuance request and asks to further delay the hearing based on the claimed unavailability of counsel for both parties on the dates granted by the first continuance order.

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 on the ground of attorney scheduling. However, further continuance requests are not contemplated for any reason, given the age of this case and the extraordinary length of the first continuance. The parties have again requested hearing dates on a date that OAH is closed. OAH maintains a public calendar on its website that shows all dates OAH is closed, including for state holidays. The attorneys for both sides should familiarize themselves with this resource and consult it prior to filing continuance requests. All dates are vacated. This matter will be set as follows:

Mediation:	January 20, 2015 at 10:00 AM
Prehearing Conference:	February 9, 2015 at 1:00 PM
Due Process Hearing:	February 18-20, 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 DATE CHANGE: The requested hearing date of February 17, 2015 is a state holiday.]

IT IS SO ORDERED.

DATE: October 07, 2014

/s/

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