

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012031078

v.

BALDWIN PARK UNIFIED SCHOOL
DISTRICT AND COVINA-VALLEY
UNIFIED SCHOOL DISTRICT,

BALDWIN PARK UNIFIED SCHOOL
DISTRICT AND COVINA-VALLEY
UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2012070228

v.

PARENT ON BEHALF OF STUDENT.

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

On January 4, 2013, the parties filed a joint request for continuance of the prehearing conference and hearing dates in these consolidated matters to mutually agreed dates in the near future. Student's original due process hearing request (complaint) was filed on March 27, 2012, but a third amended complaint was permitted by OAH order dated September 28, 2012. Most recently, OAH assigned modified hearing dates but the parties now seek dates can be accommodated by all parties.

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).)

The parties have submitted a joint waiver of mediation and request for continuance of PHC and hearing dates on these consolidated matters, stating that the parties have been unable to resolve the matter at two prior mediation sessions, but have mutually agreed upon their proposed dates for PHC and trial in January 2013. Good cause for the requested continuance of approximately 60 days is established by the unavailability of Student's counsel, who is engaged in other hearings and a jury trial until mid-January, and of counsel for both respondents on the dates currently set. All parties have represented that their counsel are available on the dates of the requested PHC and six-day hearing.

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.

All dates are vacated and continues, as follows:

Prehearing Conference: **March 4, 2013**, at 1:30 PM

Due Process Hearing: **March 11, 12, 13, 14 and 25, 2013**, commencing at 1:30 p.m. on March 11 and 9:30 a.m. on all other days. The hearing will take place at **Baldwin Park USD, 3699 North Holly Ave., Baldwin Park, CA 91706**. The hearing shall continue day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

NOTE: In light of the age of the original filings and the inability of the parties to resolve this dispute informally, no further continuances are contemplated.

IT IS SO ORDERED.

Dated: January 04, 2013

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings