

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012120331

ORDER GRANTING DISTRICT'S
REQUEST FOR CONTINUANCE AND
SETTING MED/PHC/HRG

On January 7, 2013, District filed a motion to vacate dates and set a trial setting conference, which generally consisted of documenting the inability of the parties to agree. OAH interprets this as a request to set a trial setting conference, or alternatively to continue the matter to February or March. Other than extensively documenting the lack of agreement, District's counsel also stated good cause for a continuance due to her absence from the state when the mediation was scheduled. District expressly stated it was amenable to February or March hearing dates. Student filed an opposition, which, like District's motion, was focused on documenting the inability of the parties to agree. Student's opposition noted that Student was amenable to a 30 day delay in the mediation and hearing dates up to 90 days from the original dates.

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:	February 12, 2013 at 9:30 AM
Prehearing Conference:	February 20, 2013 at 1:30 PM
Due Process Hearing:	February 25-28, 2013 at 1:30 PM first day, 9:30 AM others, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

The attorneys for both parties should consider OAH's expectation that the parties will deal with each other with courtesy and professionalism, and that all attorneys will need to rely on the professional courtesy afforded by a fellow member of the bar at some point. Both attorneys should also note that there is an OAH form request for stipulated continuances that includes an option to have OAH set the dates because the parties cannot agree. OAH may impose monetary sanctions for frivolous filings that cause an undue use of OAH resources.

IT IS SO ORDERED.

Dated: January 09, 2013

/s/

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