

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MUROC JOINT UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013100631

ORDER GRANTING INITIAL JOINT
REQUEST FOR CONTINUANCE AND
SETTING MED/ PHC/HRG

On October 17, 2013, Student filed a request for due process hearing and mediation (complaint). On November 26, 2013, the parties jointly filed an initial request to continue the dates in this matter. The due process hearing is currently set to begin on December 11, 2013. The parties are seeking a continuance of the hearing dates to April 7-10 and 14-17, 2014, on the ground that they have reached an interim agreement that contemplates assessments of Student and an IEP meeting that they contend may resolve the matter without the need for a hearing. The parties are also requesting mediation.

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 request is the parties' first request for continuance. The parties have requested that OAH continue the hearing in this matter for 6

months after Student's complaint was filed, a request which is ordinarily disfavored by OAH. The parties claim that they have resolved some issues, and are diligently working toward resolving remaining issues. As part of their efforts, they also claim that they require additional time to conduct assessments and hold an IEP meeting, which they contend may lead to a settlement of all issues. As such, the parties have established good cause for a continuance more than ninety days after the initial hearing dates.

However, given the generous extension of time granted in this order, the parties should be aware that OAH does not contemplate granting any further continuances in this matter.

This matter will be set as follows:

Mediation:	March 13, 2014 at 10:00 AM
Prehearing Conference:	March 24, 2014 at 1:00 p.m. AM OR PM
Due Process Hearing:	April 7-10, and 14-17, 2014, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall start at 1:30 p.m. on April 7 and April 14, and at 9:30 a.m. on all other hearing days, unless otherwise ordered.

IT IS SO ORDERED.

Dated: November 26, 2013

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings