

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WEST COVINA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013080394

ORDER GRANTING SECOND
REQUEST FOR CONTINUANCE [NO
FURTHER] AND SETTING
MEDIATION/PHC/HEARING

On December 13, 2013, the parties filed a second stipulated request for a continuance, which included a request for an additional mediation date. The reason given was that the parties represented they had entered an agreement for assessments that could resolve the issues in the complaint.

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. However, further continuances are not contemplated for any reason. Given the IDEA's short timelines, as of the date of filing, the petitioning party is presumed to be prepared to go to hearing within 45 days of the expiration of the resolution period. This matter was filed in August of 2013, and with the grant of this continuance, the hearing is occurring seven months after the complaint was filed. Seven months is more than adequate time to complete settlement discussions, even if assessments are now contemplated as part of the settlement negotiations. This is particularly true when, by comparison, the IDEA requires assessments to be completed and IEP team meetings held within 60 days after an assessment plan is signed. This matter will be set as follows:

Mediation:	February 26, 2014 at 9:30 AM
Prehearing Conference:	March 10, 2014 at 1:00 PM
Due Process Hearing:	March 17-20, 2014 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.

IT IS SO ORDERED.

Dated: December 13, 2013

/s/

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