

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014050902

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

On June 26, 2014, the parties filed a request to continue the dates in this matter. On June 30, 2014, the undersigned denied the request for failure to provide sufficient facts to establish good cause for the lengthy continuance they requested. On June 30, 2014, counsel for the Garden Grove Unified School District (District), Howard J. Fulfroost filed a request for reconsideration stating that the parties had reached an interim agreement which included a trial placement of Student, and this was the reason the parties were requesting a lengthy continuance of the dates into October 2014. District's letter does not provide any new facts not previously known to the parties, but rather provides the information the parties should have originally provided; and therefore, it is treated as a resubmitted request for continuance. Mr. Fulfroost's letter is accepted as representing the position of both 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).) The Office of Administrative Hearings 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. While the request for continuance is granted, the parties are reminded of two things. First, when requesting a continuance that is beyond the guidelines on OAH's forms, the parties should provide all information that establishes good cause for the continuance. Second, until an order vacating dates is received by the parties, the parties should continue to comply with all applicable orders from OAH. In this matter, the parties' failure to file timely prehearing conference statements has resulted in the assigned Administrative Law Judge expending unnecessary time preparing for the prehearing conference. This matter will be set as follows:

Mediation:	October 9, 2014, at 9:30 AM
Prehearing Conference:	October 13, 2014, at 10:00 AM
Due Process Hearing:	October 21 - 23, 2014, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

No further continuances will be granted without a showing of substantial good cause.

IT IS SO ORDERED.

DATE: June 30, 2014

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings