

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO-FOSTER CITY SCHOOL
DISTRICT.

OAH CASE NO. 2012070022

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

Hearing in this matter is set for January 22, 2013, with a telephonic prehearing conference (PHC) on January 9, 2013. On January 4, 2013, the parties filed a joint request to continue the dates in this matter using the Request for Continuance form provided by the Office of Administrative Hearings (OAH) and checking the box indicating this was their “second” continuance request. The parties request a continuance due to the disruption of their agreement in principle and their desire to return to mediation prior to hearing.

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 to continue the hearing date is:

☒ Denied. This is not the second request for continuance but rather the *fifth* request to continue dates in this matter which was originally filed in July of 2012. On November 21, 2012, OAH granted the parties' fourth request for continuance and ordered that **no further continuances would be granted without a substantial showing of good cause**. The parties' request to participate in mediation can be accommodated prior to the scheduled hearing date. A new PHC date will be set to support the settlement process. This matter will be heard as follows:

Mediation:	January 9, 2013, at 9:30 AM
Prehearing Conference:	January 16, 2013, at 1:30 PM
Due Process Hearing:	January 22, 2013, at 9:30 AM

IT IS SO ORDERED.

Dated: January 7, 2013

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings