

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LODI UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012070710

ORDER GRANTING IN PART
REQUEST FOR CONTINUANCE AND
SETTING PREHEARING AND DUE
PROCESS HEARING

This matter is currently set for a prehearing conference (PHC) on February 11, 2013, and a due process hearing beginning on February 19, 2013. On February 5, 2013, the parties filed a request to continue the PHC to February 19, 2013, vacate the February 19, 2013 due process hearing date and begin the due process hearing on February 20, 2013. The parties contend that good cause exists because they are close to execution of a final settlement agreement. The Office of Administrative Hearings (OAH) is inclined to grant the parties request, however, OAH does not calendar PHC's on days other than Mondays and Wednesdays. Accordingly, as set forth below the request will be granted in part.

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:

Prehearing Conference: February 20, 2013, at 10:00 AM
Due Process Hearing: February 21, 2013, at 9:30 AM, and continuing day
to day, Monday through Thursday, as needed at the
discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: February 6, 2013

/s/

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