

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ACALANES UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2012120740

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

On January 30, 2013, consistent with a continuance granted at the mediation in this matter, the Office of Administrative Hearings (OAH) set this matter for a prehearing conference (PHC) on April 3, 2013, and a due process hearing on April 22 through April 25, 2013. On February 14, 2013, OAH granted Student's request to file an amended complaint. The filing of the amended complaint reset the 45-day time line in this matter. On February 14, 2013, OAH issued new dates in this matter, setting mediation on March 21, 2013, a PHC on April 3, 2013, and a due process hearing to begin on April 10, 2013.

On February 20, 2013, the parties filed a request to set the dates in this matter consistent with OAH's order of January 30, 2013. Because the requested dates are later than those set by OAH consistent with the reset 45-day time line, the parties' request is treated as a motion to continue.

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:

Mediation:	March 21, 2013, at 9:30 AM ¹
Prehearing Conference:	April 3, 2013, at 1:30 PM
Due Process Hearing:	April 22, 2013, at 1:30 PM, April 23 – 25, 2013, at 9:00 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 20, 2013

/s/

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

¹ This order maintains the mediation date set on February 14, 2013. Mediation is voluntary and if the parties do not wish to participate in mediation, they may cancel it by informing OAH.