

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

KERN HIGH SCHOOL DISTRICT.

OAH CASE NO. 2013010940

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING NEW
PREHEARING CONFERENCE AND
HEARING DATES

On January 29, 2013, Nicole Hodge Amey, attorney for Student, filed a Request for a Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH) naming the Kern High School District (District). The hearing in this matter is set to begin March 26, 2013, with a prehearing conference (PHC) on March 18, 2013. On March 11, 2013, Stacy Inman, attorney for the District, filed a request to continue the dates in this matter due to the unavailability of key witnesses. OAH has not received a response from Student. This is the first request for a continuance in this matter.

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. The matter will be set as follows:

Prehearing Conference: April 3, 2013, at 10:00 AM

Due Process Hearing: April 8, 2013, at 1:30 PM and April 9, 2013, at 9:00 AM, continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: March 15, 2013

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings