

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

SAN JOSE UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013120286

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

On December 17, 2013, Rodney Levin, Attorney at Law, filed with the Office of Administrative Hearings (OAH) a request to continue the dates in this matter on behalf of the San Jose Unified School District (District) based upon the parties' request to participate in mediation, as well as, the unavailability of counsel and witnesses for the currently scheduled hearing date. District represents that the parties have verbally agreed to a mediation date the end of January 2014, but that the Parent has not signed the joint request for continuance form provided by the District on December 11, 2013. This is an initial request for a continuance. Parent has not filed a response. However, District's counsel's representation that the parties have agreed to mediate at the end of January 2014, is accepted as a joint request for mediation.

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:

Mediation: January 29, 2014, at 9:30 AM

Prehearing Conference: February 3, 2014 at 10:00 AM

Due Process Hearing: February 10, 2014 at 1:30 PM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: December 19, 2013

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings