

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MORAGA ELEMENTARY SCHOOL
DISTRICT.

OAH CASE NO. 2014041114

ORDER DENYING REQUEST FOR
STATUS CONFERENCE AND
GRANTING CONTINUANCE OF
PREHEARING CONFERENCE

On June 9, 2014, attorney for Student filed a notice of settlement, and request to vacate pending dates and set the matter for a status conference. Student states that the parties have reached an agreement, however, they do not have an executed settlement agreement. In fact, the parties are still in the process of drafting the settlement document. The Office of Administrative Hearings will only vacate prehearing conference and due process hearing dates, and set a status conference, if the parties submit a signed copy of the signature page of the settlement agreement and inform OAH of the need for a status conference because the matter is subject to board approval. Here, the parties have not met their burden, however, the representations are sufficient to consider this a request to continue the prehearing conference.

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. The prehearing conference of June 9, 2014, is vacated. This matter will be set as follows:

Prehearing Conference:	June 13, 2014, at 10:00 AM
Due Process Hearing:	June 18, 2014, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

Should the parties successfully execute their settlement agreement prior to June 13, 2014, and require a status conference, they may file another request to vacate the currently set dates, which shall include proof of signatures on the settlement.

IT IS SO ORDERED.

DATE: June 9, 2014

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