

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014070099

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

On July 18, 2014, Student filed a request to continue the dates in this matter because he is unavailable for the currently scheduled mediation due to a pre-planned and pre-paid vacation. Student seeks an order setting the mediation for August 27, 2014, and the due process hearing for November 12, 2014. On July 22, 2014, Elk Grove Unified School District (Elk Grove) submitted its response agreeing to continue the previously scheduled dates but seeking the due process hearing be set to begin the week of October 13, 2014.¹

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).)

¹ Elk Grove also filed an opposition to consolidating this case with OAH case number 2014070093 wherein Student's brother is the petitioner. Student, however, has not filed a motion to consolidate the cases (although he mentioned an intent to do so in the future), but rather requested a consolidated mediation. The Office of Administrative Hearings will schedule the mediations to occur on the same day, but makes no ruling on a motion to consolidate the cases as no such motion is currently pending.

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:	August 27, 2014, at 9:30 AM
Prehearing Conference:	October 27, 2014, at 10:00 AM
Due Process Hearing:	November 4, 2014, 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.

DATE: July 24, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings