

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. 2014070093

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

On July 18, 2014, Student filed a request to continue the dates in this matter. On July 22, 2014, the Office of Administrative Hearings (OAH) denied the request without prejudice, indicating that Student could either obtain Elk Grove Unified School District's (Elk Grove's) agreement regarding proposed dates or re-submit a motion to continue specifying the reason for his unavailability. On July 23, 2014, Elk Grove submitted its response to Student's original motion to continue agreeing to continue the previously scheduled dates and seeking the due process hearing be set to begin the week of October 27, 2014. On July 23, 2014, Student's father submitted a supplemental declaration providing additional information regarding his availability and seeking mediation be scheduled for August 27, 2014, the same day as he requests mediation be set in OAH Case No. 2014070099, his other son's case.¹ The supplemental declaration is considered a renewed motion to continue the dates set in this case.

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

¹ Elk Grove also filed an opposition to consolidating this case with OAH 2014070099, Student's brother's case. Student, however, has not filed a motion to consolidate these cases. Rather, Student requests the mediations be consolidated. OAH will schedule the mediations to occur the same day, but makes no ruling on a motion to consolidate the cases as no such motion is currently pending.

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:	August 27, 2014, at 1:30 PM
Prehearing Conference:	November 3, 2014, at 1:00 PM
Due Process Hearing:	November 12, 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.

DATE: July 24, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings