

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

OAKLAND UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014070452

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

On July 29, 2014, the parties filed a request to continue the dates in this matter.¹
There have been no prior continuances in this matter.²

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).) The Office of Administrative Hearings considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays;

¹ The request was filed after close of business on July 28, 2014, and accordingly treated as filed on July 29, 2014.

² Counsel for each party also filed an explanation of why the mediation in this matter was canceled. Mediation is voluntary and it is not relevant why a party canceled mediation. Counsel also attempted to explain why each of them did not file prehearing conference (PHC) statements in preparation for the July 28, 2014 PHC. The excuses essentially state that because mediation was canceled the attorneys were unable to agree on dates for a continuance. Student's counsel further explains why she failed to appear at the July 28, 2014 PHC. While there is some merit to the parties' inability to timely file PHC statements in this matter, there is no justification for the parties to not timely file a request to continue, prior to the PHC. Furthermore, since there was no order from OAH vacating the July 28, 2014 PHC, Student's counsel's excuse as to why she failed to appear is not acceptable. Any similar conduct in this matter may result in an Order to Show Cause.

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. This matter will be set as follows:

Prehearing Conference:	November 3, 2014, at 1:00 PM
Due Process Hearing:	November 18, 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 29, 2014

/s/

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