

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL
DISTRICT and SACRAMENTO CITY
UNIFIED SCHOOL DISTRICT.

OAH Case No. 2014090865

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

On November 4, 2014, Elk Grove Unified School District (Elk Grove) filed a request to continue the dates in this matter due to calendar conflicts with other cases pending before OAH. On November 7, 2014, Sacramento City Unified School District (Sacramento), filed a concurrence with Elk Grove's request. Student did not file any response.

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).)

Elk Grove's request was reviewed by this ALJ, and all of the calendaring conflicts with other matters before OAH have now been resolved by continuances being granted in those cases, or the cases being dismissed pursuant to settlement agreements. However, in Sacramento's concurrence, it is represented that Sacramento has another matter pending before OAH with the same attorney who is representing Student in this case. The hearing has begun in that matter, and is now continued to November 19, 2014, the first day of hearing in this case. In the declaration attached to its concurrence, the attorney for

Sacramento represents that Student's attorney stated he would not oppose a continuance in this matter, if the other case was continued to November 19, 2014. Because hearing has already begun in that case, and the request for continuance is now unopposed, and because this is the first request made for a continuance in this matter, good cause has been established. The request is:

☒ Granted. All dates are vacated. This matter will be set as follows:

Mediation:	February 4, 2015, at 9:30 a.m. ¹
Prehearing Conference:	February 23, 2015, at 1:00 p.m.
Due Process Hearing:	March 4, 2015, at 9:30 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

IT IS SO ORDERED.

DATE: November 14, 2014

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

¹ Counsel for the parties shall consult with each other to determine the location of the mediation, and notify OAH as soon as that has been determined.