

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

ACALANES UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2014100293

ORDER GRANTING JOINT REQUEST
FOR CONTINUANCE, SETTING NEW
DATES, AND DENYING REQUEST
FOR STATUS CONFERENCE

On January 29, 2015, the parties filed a joint request to continue the dates in this matter for both a status conference and continued hearing dates based upon having entered into a settlement agreement. The agreement is subject to approval by the governing board of the school district.

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; 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).)

The due process hearing in this matter is scheduled to begin on February 24, 2015. The parties move to continue the hearing to the second week of March 2015. The prehearing conference is currently scheduled for February 13, 2015. The parties did not propose a new date for that conference. In addition, the parties request that a status conference be scheduled for the first week in March 2015, regarding the status of board approval of the settlement agreement.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is granted in part and denied in part. The parties have established good cause to continue the hearing dates based upon their representations of having entered into an executed settlement agreement. However, the parties did not submit a copy of the signature page of the agreement to OAH, and consequently a continuance of the matter to a status conference on the issue of board approval will not be granted at this time.

☒ The motion of the parties for a continuance of the prehearing conference and hearing dates is granted. This matter will be set as follows:

Prehearing Conference: February, 27, 2015, at 3:00 p.m.

Due Process Hearing: March 9, 2015, at 1:30 p.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: February 10, 2015

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings