

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

VISTA UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2015010878

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

On February 20, 2015, a telephonic prehearing conference was held before Administrative Law Judge Caroline A. Zuk, Office of Administrative Hearings. Tiffany Santos, Attorney at Law, appeared on behalf of Vista Unified School District. Student's mother appeared on behalf of Student. Spanish interpreter Bernadette Buckley participated in the conference call to translate for Student's mother. The prehearing conference was recorded.

At the beginning of the prehearing conference, the parties discussed District's pending request for a continuance of the due process hearing, which was filed and served on February 12, 2015. While Student's mother recalled receiving documents from District, she was unable to read them because they were in English. Student did not file an opposition to the District's request for a continuance.

The basis for District's first request for a continuance is a calendar conflict involving another due process hearing scheduled to proceed on the same date as this matter (Case Number 2015010038). The ALJ confirmed that this calendar conflict existed at the time of the prehearing conference. Student opposed the continuance, because he contends that he was not treated fairly by District and the Office of Administrative Hearings in a previous due process hearing (Case Number 2013070169).

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).)

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:	March 11, 2015 at 9:30 a.m. to 4:30 p.m.
Prehearing Conference:	March 6, 2015 at 10:00 a.m.
Due Process Hearing:	March 17-19, 2015, continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall begin each day at 9:00 a.m. and end at 4:30 p.m. with the exception of March 17, 2015, on which day the hearing shall begin at 9:30 a.m., unless otherwise ordered.

During the conference, District requested that the mediation and hearing be held at the North Coastal Consortium for Special Education, 255 Pica Avenue, Suite 101, San Marcos, California 92069 instead of the District, because it had obtained an order in September 2014 from the San Diego Superior Court, restricting Student's father's access to District's property. District has not filed a copy of the court order with OAH. Student requested that the mediation and hearing be held at the Office of Administrative Hearings. The parties were directed to file a motion to change the location of the mediation and due process hearing. As of the date of this Order, the mediation and due process hearing shall be held at Vista Unified School District, 1234 Arcadia Avenue, Vista, California 92084.

IT IS SO ORDERED.

DATE: February 23, 2015

/s/

CAROLINE A. ZUK
Administrative Law Judge
Office of Administrative Hearings