

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ELK GROVE UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015010203

ORDER FOLLOWING PREHEARING
CONFERENCE GRANTING MOTION
TO CONTINUE

On February 2, 2015, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Joy Redmon, Office of Administrative Hearings. Attorney Lauri Arrowsmith appeared on Elk Grove Unified School District's behalf. James Peters appeared on Student's behalf. The PHC was recorded.

Motion to Continue: Mr. Peters asserted that Student filed a written motion today requesting to continue this due process hearing currently scheduled to commence tomorrow, February 3, 2015.¹ Neither Elk Grove's attorney nor this ALJ received copies of the motion prior to the PHC. Student was permitted, however, to make an oral motion to continue. Mr. Peters requested a continuance because Student's Mother became seriously ill over the weekend and, although not currently hospitalized, requires oxygen. Mr. Peters said he believes that Student's Mother will be able to proceed to hearing in approximately threeweeks. Elk Grove opposed the motion because its attorney flew up from southern California and Elk Grove is ready to proceed.

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).) 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

¹ Mr. Peters stated that Student also filed today a motion to consolidate this matter with Student's previously filed case also pending with OAH. That motion was not ruled on during the PHC as Elk Grove's counsel had not received the motion and had not had time to review it or respond prior to the PHC commencing. Nothing in this order impacts the motion to consolidate.

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).)

Good cause was established to continue the due process hearing for three weeks due to Student's Mother's current illness.

ORDER

1. Student's Motion to Continue is granted and all dates currently set are vacated.
2. The PHC is now scheduled for Friday, February 13, at 10:00 a.m., and the due process hearing is scheduled for Tuesday, February 24, 2015, at 9:30 a.m., and February 25, 2015, at 9:00 a.m., and day-to-day thereafter, Monday through Thursday, as needed, and at the discretion of the Administrative Law Judge.
3. The due process hearing will be conducted at Elk Grove's offices located at 9510 Elk Grove Florin Road, Elk Grove, California, 95624 and not at the Office of Administrative Hearings as previously ordered.

IT IS SO ORDERED.

DATE: February 2, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings