

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014071130

ORDER GRANTING REQUEST TO
CONTINUE PREHEARING
CONFERENCE ONLY AND SETTING
PREHEARING CONFERENCE DATE

On March 5, 2015, the parties filed with the Office of Administration Hearings a “Joint Stipulation to Continue Prehearing Conference.” Through this filing, the parties request that OAH continue the March 9, 2015 PHC to March 13, 2015, so that they may have additional time to reduce their agreement in principal to writing and finalize a written settlement agreement. This filing is deemed a joint request to continue the PHC.

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. OAH has already granted a prior request to continue the PHC only and two prior requests to continue the hearing. The parties have been advised twice that any further continuances would require a showing of substantial good cause. Although OAH supports the parties’ ongoing settlement efforts, it is mindful of the length of time this matter has been pending. The request to continue the PHC only is:

☒ Granted. **The PHC is set for March 13, 2015, at 10:00 am.** In order to effectively prepare for hearing in the event the parties do not finalize a written settlement agreement, the hearing judge must receive the parties' PHC statements. Student has filed her PHC statement. **If this matter is not withdrawn, District is ordered to file its PHC statement no later than noon on March 12, 2015.** The hearing dates remain as previously set.

IT IS SO ORDERED.

DATE: March 5, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings