

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT AND WALNUT VALLEY
UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015030166

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

On October 12, 2015, Sacramento City Unified School District filed a request to continue the dates in this matter because Sacramento's director of special education and special education local plan area director, who represents Sacramento at due process hearings, will be involved in another due process hearing matter in an earlier filed case during the dates scheduled for hearing in this matter. Sacramento also contends that a continuance will give the parties time for mediation, which the parties have not undertaken and desire to undertake. Walnut Valley Unified School District filed a non-opposition to the request for continuance on October 15, 2015 and Student filed an opposition to the motion on October 15, 2015. Student opposes the continuance because he contends that Sacramento may use another employee as their representative in hearing, that a continuance would prejudice Student and that Student does not agree to mediate this case if a mediation will delay the hearing.

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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

- ☒ Granted. All dates are vacated. Sacramento has shown good cause for a very short continuance in this matter. A mediation date is not set, as the parties have not all agreed to attend mediation. If the parties all agree to mediation, they may request a mediation date prior to the hearing date in this matter.

Prehearing Conference: October 23, 2015, at 10:00 a.m.

Due Process Hearing: November 5, 2015, at 9:30 a.m., November 9, 2015,
at 1:30 p.m., and November 10, 2015, at 9:00 a.m.,
and continuing day to day, Monday through
Thursday, as needed at the discretion of the
Administrative Law Judge.

IT IS SO ORDERED.

DATE: October 16, 2015

/s/

MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings