

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015110163

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

On December 3, 2015, Sacramento City filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon counsel and witness unavailability and its winter break. On December 3, 2015, Student opposed the request asserting that he would be harmed by a continuance of the matter because he is currently being served on an outdated individualized education program that does not meet his needs.

A due process hearing must be conducted and a decision rendered within 45 days of OAH receiving 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 a party, counsel, or an essential witness unavailability due to death, illness, or other excusable circumstances; attorney substitution 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 resulting in the case not being 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. Sacramento City has established good cause to continue the matter but not for the length of time requested. Sacramento City established that its counsel is unavailable due to a previously scheduled international vacation and familial care commitments from December 14, 2015, through January 8, 2016. It also established good cause due to continue based upon the unavailability of one of its essential witnesses for a portion of the dates cited

above. For the time period following January 8, 2016, Sacramento City's counsel represented she is not available until February 22, 2016, because she is scheduled to litigate other matters pending before OAH. No specificity was provided for those other matters. Accordingly, good cause was not established for the length of continuance requested by Sacramento City.

The request for continuance is:

☒ Granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference:	January 22, 2016, at 1:00 PM
Due Process Hearing:	February 2, 2016 at 9:30 AM, February 3, 2016, and February 4, 2016, at 9:00 AM and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. ¹

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: December 8, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings

¹ Sacramento City's motion to continue this matter also expressed an interest in mediating this matter. Student's opposition did not include a similar request. If the parties want to schedule a mediation for this case, they shall contact OAH in writing with such a request and a mediation will be scheduled before the due process hearing in this matter is set to begin.