

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MONTEREY PENINSULA UNIFIED  
SCHOOL DISTRICT.

OAH Case No. 2015080011

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

On December 1, 2015, the parties filed a joint request to continue the dates in this matter with the Office of Administrative Hearings, because Student's educational placement and services will be dependent on the disposition of a criminal case involving Student scheduled to be resolved in December 2015. This is the second request for a continuance in this matter.

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. However, the parties have asked that the prehearing conference be set on January 15, 2016. OAH is not available for prehearing conferences on this date, therefore the PHC is set for another date. Also, the parties have asked that the hearing start on February 1, 2016. OAH does not schedule hearings on the first Monday of each month. Therefore, the hearing is scheduled to start on February 2, 2016. This matter will be set as follows:

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

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 3, 2015

/s/  
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MARGARET BROUSSARD  
Presiding Administrative Law Judge  
Office of Administrative Hearings