

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

REDWOOD CITY ELEMENTARY  
SCHOOL DISTRICT.

OAH CASE NO. 2012051055

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING NEW  
DATES

On May 25, 2012, Student filed a request for a due process hearing with the Office of Administrative Hearings (OAH) naming the Redwood City Elementary School District (District). OAH granted the parties' initial request for continuance on May 31, 2012. On September 6, 2012, Student's former counsel filed a notice of withdrawal of the case and OAH issued a notice of dismissal that same day. On September 12, 2012, OAH granted Student's request to re-open the case and issued a new scheduling order. On September 27, 2012, the District filed a motion to dismiss, which OAH denied on October 8, 2012. On October 17, 2012, the parties again filed a joint request to continue this matter for two additional months and inaccurately identified this as an "initial" request for continuance.

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. This matter has been pending since May 25, 2012. Although Student just

recently acquired new counsel, both counsel are presumed to have known the procedural status of this case, including the fact that OAH had already granted one continuance. The need to re-open this matter and issue a new scheduling order resulted in further delay in the adjudication of Student's claims. Counsel have, in error, treated this as an initial request for continuance and failed to provide any reason for the lengthy continuance request. The request is:

Granted. All dates are vacated. **Any further application for continuance will be strongly disfavored, and there will be no further continuance without an extraordinary showing of good cause supported by declaration.** This matter will be set as follows:

Mediation:	December 12, 2012, at 9:30 AM
Prehearing Conference:	January 7, 2012, at 1:30 PM
Due Process Hearing:	January 14-17, 2012, starting at 1:30 PM the first day of hearing, and 9:00 AM each additional day unless otherwise ordered.

IT IS SO ORDERED.

Dated: October 18, 2012

/s/  
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THERESA RAVANDI  
Administrative Law Judge  
Office of Administrative Hearings