

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLOVIS UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012060724

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
MEDIATION, PRHEARING  
CONFERENCE AND DUE PROCESS  
HEARING DATES

On June 25, 2012, Student filed a request to continue the dates in this matter on the grounds that Mother is unavailable due to a medical illness in the family, Parents are actively seeking legal counsel, and Mother was not timely served with the due process complaint. On July 2, 2012, Student filed a supplemental request for continuance and provided additional information that Mother suffered a death in her family on June 29, 2012, and will be unavailable for the next few weeks. The Office of Administrative Hearings (OAH) contacted both Father and District's counsel on July 2, 2012, to determine if District was served with Student's request for continuance. On July 2, 2012, District's counsel informed OAH staff that they received the motion and were in agreement with the continuance request but would file an opposition as to the proposed dates. OAH has not received a written response from District.

1. 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. The request is:

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

Mediation: September 18, 2012, at 9:30 AM  
Prehearing Conference: October 3, 2012, at 10:00 AM  
Due Process Hearing: October 15, 2012, at 1:30 PM, and day-to-day thereafter, starting at 9:30 AM

2. Other Matters: All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the prehearing conference (PHC) on October 3, 2012.

3. Notice to Witnesses: 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.

4. Settlement: Dates for the PHC and the hearing will not be cancelled until a letter of withdrawal or request for dismissal with the signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled PHC and the hearing unless different arrangements have been agreed upon by the assigned ALJ or otherwise ordered by OAH.

IT IS SO ORDERED.

Dated: July 5, 2012

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