

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PALO ALTO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012080289

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

On November 27, 2012, Student filed a request to vacate the dates in this matter, and a request for a status conference, on the grounds that the parties had reached a settlement, but required time to finalize and execute the agreement, and obtain approval of the school district's board of trustees. On November 27, 2012, the Palo Alto Unified School District joined in Student's motion. Because the parties do not have a fully executed settlement agreement, the Office of Administrative Hearings (OAH) will not vacate hearing dates. However, notification of a settlement, pending execution of documents, may be grounds for a continuance request. Accordingly, the parties' filings are treated as a motion to continue.

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:

Prehearing Conference: January 14, 2013, at 1:30 PM  
Due Process Hearing: January 22, 2013, at 1:30 PM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: November 28, 2012

/s/

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BOB N. VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings