

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2012100242

v.

FRESNO UNIFIED SCHOOL DISTRICT,

FRESNO UNIFIED SCHOOL DISTRICT,

OAH Case No. 2012100291

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
HEARING DATES

On July 1, 2014, Fresno Unified School District (Fresno) filed a request to continue the dates in this matter. Fresno requested a continuance because its attorney is recovering from a significant surgical procedure and will not be medically cleared to return to work until August 1, 2014. This is Fresno's third request to continue the remedies portion of this consolidated matter. Student timely filed an opposition to the motion to continue asserting that because of the numerous delays and because, given the seriousness of Fresno counsel's medical condition, Fresno should have sought alternative counsel. Both of the assessors contracted by OAH are available to testify on August 14, 2014.

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).) The Office of Administrative Hearings 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 hearing dates are vacated and a short continuance is granted. All other timelines and dates in the Order After Prehearing Conference dated April 14, 2014, remain. However, **NO FURTHER CONTINUANCES WILL BE GRANTED IN THIS MATTER.** This matter will be set as follows:

Due Process Hearing: August 14 and 15, 2014, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: July 8, 2014

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings