

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

KEYES UNION ELEMENTARY SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012110244

ORDER GRANTING REQUEST TO
SET MEDIATION DATE, DENYING
WITHOUT PREJUDICE REQUEST TO
VACATE SECOND DAY OF
HEARING, AND CONTINUING
PREHEARING CONFERENCE DATE

On February 1, 2013, Summer D. Dalessandro, attorney for the Keyes Union Elementary School District (District), filed with the Office of Administrative Hearings (OAH) a request to schedule mediation for Wednesday, February 13, 2013 and to vacate the second day of hearing which is currently calendared for February 27, 2013. Student has not responded.

In order to support the parties' efforts to participate in settlement negotiations, OAH grants the District's request to calendar a mediation date. **Mediation is scheduled for Wednesday, February 13, 2013 from 10:30 a.m. until 4:30 p.m. at the District Office located at 5680 Seventh Street, Keyes, California 95328.**

The due process hearing in this matter is currently set for February 26 through 28, 2013. The District requests to vacate the second day of hearing due to the unavailability of counsel. This motion is premature and may be renewed in connection with the prehearing conference. However, the prehearing conference is currently set for Monday, February 18, 2013, a state holiday when OAH is closed. Therefore the prehearing conference shall be rescheduled for Wednesday, February 20, 2013.

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 to vacate the second day of hearing is:

Denied without prejudice. The hearing dates are confirmed and shall proceed as calendared. **The prehearing conference is continued to February 20, 2013, at 1:30 p.m.** If this matter does not resolve at mediation, the parties shall be prepared to discuss scheduling issues at the prehearing conference on February 20, 2013 at 1:30 p.m.

IT IS SO ORDERED.

Dated: February 7, 2013

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings