

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA CRUZ CITY SCHOOL DISTRICT.

OAH CASE NO. 2013031143

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

On May 10, 2013, the parties filed a request to continue the dates in this matter. In an attachment to the request, the parties state that they are holding an informal mediation on June 10, 2013, without a mediator from the Office of Administrative Hearings (OAH), because OAH did not have a mediator available for the parties on June 10, 2013.¹ The parties further state that a continuance of this matter into September 2013 is warranted due to the Santa Cruz City School District (District) witnesses being unavailable during District's summer recess. Finally, the parties state that Ms. Andrea Tytell, Student's counsel, is unavailable for hearing on May 20, 2013, due to a conflict with another due process hearing. For the reasons set forth below, the request is granted in part.

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

¹ The undersigned is unaware of any request by the parties for mediation on June 10, 2013. OAH has not denied any mediation request by the parties in this matter on the grounds of unavailability of a mediator. The undersigned has previously denied a request for June 3, 2013, Monday mediation by Ms. Tytell because she failed to establish good cause to set mediation outside of OAH's normal calendaring guidelines.

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. Summer recess of a school district is not good cause for a continuance. The Individuals with Disabilities Education Act (IDEA) calls for a speedy resolution to these matters and does not make an exception for school districts' summer recesses. Were that the case, all due process proceedings under the IDEA would be delayed by the summer recess of school districts across the state. That would not be in keeping with the speedy resolution mandate of the IDEA. Furthermore, while Ms. Tytell fails to provide sufficient information regarding her conflict, such as a case number, and did not file a declaration under oath, the undersigned will accept Ms. Tytell's representation of a previously calendared conflicting matter. This matter is set as follows:

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| Prehearing Conference: | June 19, 2013, at 10:00 AM |
| Due Process Hearing: | June 25, 2013, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. |

IT IS SO ORDERED.

Dated: May 10, 2013

/s/

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