

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

AUBURN UNION ELEMENTARY
SCHOOL DISTRICT.

OAH CASE NO. 2013041134

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING

On May 30, 2013, the parties filed a joint request to continue the dates in this matter based upon the parties' attempts to resolve issues without a hearing, and the need for assessments of Student.¹

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 (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:

¹The parties also stated that the proposed dates for continuance are dates when school staff will be "available." However, school breaks are not good cause for a continuance.

Prehearing Conference: September 6, 2013, at 10:00 a.m.²
Due Process Hearing: September 16, 1:30 p.m., and September 17-19,
2013, 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.

Dated: May 30, 2013

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

² The parties requested a PHC date of June 10, 2013, which is the original date set for the PHC. However, OAH declines to hold a PHC three months prior to the commencement of the due process hearing.