

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LODI UNIFIED SCHOOL DISTRICT and
VALLEY MOUNTAIN REGIONAL
CENTER.

OAH CASE NO. 2013110146

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING

On December 16, 2013, Lodi Unified School District (District) filed a request to continue the hearing dates in this matter which is currently set for December 24, 2013. The District claims that five of its witnesses are unable to attend the due process hearing on that date, or for several days thereafter, and has supporting declarations from those witnesses attached to its motion. Student initially filed opposition to the request on December 18, 2013, but on December 19, 2013, filed partial consent to the motion to continue, claiming it also had witnesses unavailable for a hearing beginning December 24, 2013, and asking that the hearing be continued to January 6, 2014. Valley Mountain Regional Center did not file a response.

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. However, OAH cannot set this matter for hearing beginning January 6, 2014, as requested by Student. This matter will be set as follows:

Prehearing Conference:	February 28, 2014, at 10:00 a.m.
Due Process Hearing:	March 10, 2014, at 1:30 p.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: December 20, 2013

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings