

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

TAMALPAIS UNION HIGH SCHOOL  
DISTRICT.

OAH Case No. 2013120166

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING DUE  
PROCESS HEARING DATES

The due process hearing in this case is currently set to begin on March 10, 2014. On March 10, 2014, 2014, the Office of Administrative Hearings (OAH) received Student's request to vacate the March 10-12, 2014 hearing dates because the parties have reached a settlement agreement and are awaiting the approval from the Tamalpais Union High School District (Tamalpais) School Board.<sup>1</sup> Student further requests that the March 13, 25, 26 and 27, 2014's due process hearing dates be maintained should the Board reject the settlement agreement.

APPLICABLE LAW AND DISCUSSION

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

---

<sup>1</sup> Student's request was filed with OAH on Sunday, March 9, 2014, at 11:15 p.m. and thus, it is deemed filed on Monday March 10, 2014.

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).)

Student and Tamalpais have reached a final settlement agreement in this matter and have provided OAH with written proof of the settlement. Once the parties have a fully executed settlement agreement and are awaiting Board approval, OAH would typically vacate all due process hearing dates and set a status conference for the parties. In this case however, Student has requested that certain due process hearing dates be maintained so that the due process hearing may commence without delay should the Board fail to approve the agreement. OAH deems Student's request a motion to continue the hearing dates in this matter. Based on the facts presented by Student, good cause is established for the continuance of the hearing dates, and accordingly, the due process hearing dates are continued and set as follows:

Due Process Hearing: **March 25, 2014, at 9:30 a.m. and March 26 and 27, 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: March 10, 2014

/s/

---

ADENIYI AYOADE  
Administrative Law Judge  
Office of Administrative Hearings