

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO FOSTER CITY SCHOOL
DISTRICT.

OAH Case No. 2016020653

ORDER GRANTING JOINT REQUEST
FOR CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING DATES

On May 17, 2016, San Mateo Foster City School District and Student filed a joint motion to continue the dates in this matter with the Office of Administrative Hearings, based upon the parties' desire to attempt to resolve this matter in a civil mediation scheduled to take place on June 27, 2016. The participants to this mediation will include the attorneys from both this matter and a related, pending civil action between the parties, and the parties will attempt to settle all claims in both matters. This is the second request for a continuance in this matter.

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 parties have established good cause to continue the matter based on the pending mediation in the civil action between the parties. The request is:

Granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference: July 15, 2016 at 1:00 PM

Due Process Hearing: July 26, 2016 at 9:30 AM, July 27 and 28, 2016 at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing “good cause” to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: May 17, 2016

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Lisa Lunsford
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LISA LUNSFORD
Administrative Law Judge
Office of Administrative Hearings