

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2016050756

v.

SOLEDAD UNIFIED SCHOOL DISTRICT,

SOLEDAD UNIFIED SCHOOL DISTRICT,

OAH Case No. 2016050231

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING DATES

On June 20, 2016, Soledad Unified School District filed with the Office of Administrative Hearings a motion to continue the dates in this matter, based upon the unavailability of its counsel and representative, and numerous witnesses. Soledad's motion is supported by seven declarations under penalty of perjury. On June 23, 2016, Student opposed the request on the grounds that a long continuance would prejudice Student. On June 24, 2016, Soledad filed a response. There have been no prior continuance of this consolidated matter nor the underlying matters.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,

¹ Although Student argues that his placement has been subject to dispute for some time, and that Soledad filed a prior case with OAH in November 2015, that matter was withdrawn. The current matters before OAH originated in May 2016.

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. Soledad has established good case for a continuance due to the unavailability of counsel and witnesses. The request is:

Granted. All dates are vacated. This matter will be set as follows based upon OAH's availability:

Prehearing Conference: August 15, 2016, at 1:00 p.m.

Due Process Hearing: August 23, 2016, at 9:30 a.m., August 24-25, 2016, at 9:00 a.m., 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: June 24, 2016

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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings