

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN RAMON VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011081023

ORDER GRANTING CONTINUANCE
AND SETTING PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On May 8, 2012, Student filed a notice of settlement, and a request to vacate all dates and set the matter for a status conference on June 6, 2012. On May 11, 2012, the San Ramon Valley Unified School District (District) filed a statement of non-opposition. From the representations of both parties, the Office of Administrative Hearings (OAH) has determined that while Student has executed the settlement agreement, District will not execute the settlement agreement until it is approved by District's Governing Board of Trustees (Board). In addition to Board approval, the parties represent that the agreement requires approval through judicial proceedings in a civil matter between the parties. The parties did not provide a date for when they expect "court approval." Accordingly, because the settlement agreement has not been signed by all parties and is awaiting court approval, OAH cannot vacate dates; however, the parties' request can be grounds for a request to continue and is treated as such.

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 request is:

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

Prehearing Conference:	June 6, 2012, at 1:30 PM
Due Process Hearing:	June 12, 2012, at 9:30 AM, and day-to-day thereafter

IT IS SO ORDERED.

Dated: May 16, 2012

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings