

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SHANDON JOINT UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012020281

ORDER GRANTING CONTINUANCE
AND SETTING PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On May 8, 2012, the parties filed a joint request that the Office of Administrative Hearings (OAH) vacate all dates in this matter and set a trial setting conference in this matter on the grounds that the parties “contemplate settlement within the next one to two days.” **The parties are advised that OAH does set trial setting conferences except in special circumstances, which are not present in this case. OAH also does not vacate due process hearing dates unless the parties have a signed settlement agreement and require a status conference due to pending school board approval of the settlement.** That circumstance also does not exist in this matter. Accordingly, the parties request is treated as a request to continue.

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: May 21, 2012, at 1:30 PM
Due Process Hearing: May 30 – 31, 2012, at 9:30 AM

IT IS SO ORDERED.

Dated: May 8, 2012

/s/

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