

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MCFARLAND UNIFIED SCHOOL  
DISTRICT AND KERN COUNTY OFFICE  
OF EDUCATION

OAH CASE NO. 2012080603

ORDER GRANTING IN PART  
REQUEST FOR CONTINUANCE OF  
PREHEARING CONFERENCE AND  
SETTING PREHEARING  
CONFERENCE

On October 4, 2012, the parties filed a joint request to continue the October 10, 2012, prehearing conference (PHC) to October 15, 2012, on the grounds that the parties have reached a final settlement, and are in the process of obtaining signatures. The parties further request that they be allowed to delay the filing of their PHC statements to 9:00 a.m. on October 15, 2012. As discussed below, their request is granted in part.

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).) The Office of Administrative Hearings (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 in part. The PHC set for October 10, 2012, is vacated. However, in order to effectively adjudicate this matter and begin the currently scheduled October 16, 2012 due process hearing in McFarland, California, at 9:30 a.m., OAH cannot grant the parties request to conduct the PHC at 1:30 p.m. on October 15, 2012. This matter will be set as follows:

Prehearing Conference: October 15, 2012, at 10:00 AM; PHC statements due by 3:00 PM on October 12, 2012

Due Process Hearing: October 16, 2012, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: October 8, 2012

/s/

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