

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TUOLUMNE COUNTY CALIFORNIA
CHILDREN'S SERVICES, SONORA
ELEMENTARY SCHOOL DISTRICT,
AND TUOLUMNE COUNTY OFFICE OF
EDUCATION.

OAH CASE NO. 2012100238

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

On December 13, 2012, Tuolumne County California Children's Services (CCS) filed a request to vacate the current dates in this matter and reset for later dates based upon the unavailability of counsel. On December 18, 2012, Student filed an opposition to the request to vacate dates, but was not opposed to a continuance of the dates. The Office of Administrative Hearings (OAH) has not received a response from the Sonora Elementary School District (District) or from Tuolumne County Office of Education (COE).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, 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

¹ On December 21, 2012, Student filed a request to dismiss both the District and the COE based upon reaching a final settlement agreement with both parties. At the time of this Order, OAH has not yet issued a notice of dismissal.

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).)

Student originally filed a request for a due process hearing on October 3, 2012. An initial joint request for continuance was granted on November 14, 2012. On December 4, 2012 OAH issued a new scheduling order upon granting CCS' request to join the District and COE as parties. Counsel for CCS is unavailable for the mediation date due to prearranged out-of-state travel plans and is unavailable for the hearing date due to a scheduling conflict with another hearing. Counsel attempted without success to meet and confer with all parties to select new dates. Student does not oppose the request to continue. OAH has reviewed the request for good cause and considered all relevant facts and circumstances. CCS has established good cause and the request is:

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

Mediation:	February 26, 2013 at 9:30 AM
Prehearing Conference:	March 6, 2013 at 10:00 AM
Due Process Hearing:	March 19 – 20, 2013 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: December 24, 2012

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings