

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SAN MATEO UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2013090550

ORDER DENYING REQUEST TO
VACATE ALL DATES AND
CONTINUING DUE PROCESS
HEARING DATES

The due process hearing in this case is currently set to begin on February 25, 2014. On February 21, 2014, Student filed a request to vacate the due process dates in this matter because the parties reached a settlement agreement and are awaiting the San Mateo Union High School District's Board approval. Student requests that a status conference be scheduled on March 10, 2014.

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).)

While Student represents that the parties have reached a final settlement agreement in this matter, Student has not provided OAH with a proof of such settlement. OAH does not vacate due process hearing dates until the parties have a fully executed settlement agreement, and a proof of settlement is filed with OAH. Therefore, the request to vacate the due process hearing dates is denied at this time. The Parties may file a new request to vacate the due

process hearing dates and set a status conference upon the filing of a proof of settlement with OAH. The signature page(s) of a written settlement agreement signed by both parties will suffice as a proof of settlement.

However, based on the representation by the attorney for Student that the parties have settled this case, in the interest of judicial economy OAH believes that a continuance of the dates is appropriate. Therefore, OAH finds good cause to continue the due process hearing dates in this matter. Accordingly, the due process hearing dates in this matter are continued and are set as follows:

Due Process Hearing: **March 18-20, 2004 at 9:30AM**, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: February 24, 2014

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings