

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

OAKLAND UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014010686

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

On February 5, 2014, the Oakland Unified School District (Oakland) filed a request for continuance in which it stated that Student requested a continuance and while Oakland did not oppose, the parties could not agree upon dates. Oakland's specific concern was that the dates requested by Student would put the hearing beyond the date for Student triennial assessment due date. On February 7, 2014, Student filed a response to Oakland's request. While the parties disagree on dates, it is clear that they both agree to continue this matter. As discussed below, the request is granted.

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. All dates are vacated. Oakland states that a delay of this matter into April 2014 would impact Student's triennial assessment. On the other hand, Student's request to delay the hearing in this matter into April 2014 is based upon alleged medical procedures that Parent is undergoing in February 2014.¹ Parent's unavailability for hearing supports Student's request to set this matter later than Oakland's request. This matter will be set as follows:

Prehearing Conference:	March 28, 2014, at 10:00 AM
Due Process Hearing:	April 8, 2014, 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: February 7, 2014

/s/

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

¹ Oakland did not submit a declaration, under penalty of perjury, setting out Student's assessment due date and how that would be impacted by a continuance in this matter. Conversely, Student did not submit a declaration, under penalty of perjury, from Parent supporting the allegations in Student's response. Because both parties are in agreement to a continuance, the allegations in the parties' pleadings are accepted. In the future, the parties should provide declarations, or other documentation, supporting the allegations in their pleadings.