

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2014070177

ORDER DENYING REQUEST FOR  
CONTINUANCE AND GRANTING  
THE PARTIES' REQUEST TO  
VACATE FEBRUARY 24, 2015

On February 20, 2015, the parties filed a joint request to continue the dates in this matter or, in the alternative, that the hearing dates of February 24, 25, and 26, 2015 be vacated. The parties indicated in their motion their belief that this matter can be settled without the need for a hearing, if they are permitted a short continuance to finalize an agreement. This case was filed on June 27, 2014. The Office of Administrative Hearings has granted several continuances and granted a motion to amend the complaint which essentially resulted in an additional continuance. The parties state in their motion that they “agree that good cause exists for a continuance of the due process hearings.”

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 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:

Denied in part and granted in part. The hearing dates are confirmed and shall proceed as calendared, with the exception of February 24, 2015. The parties have not put forth good cause as to why this case should be continued. Simply stating that the parties agree that there is good cause, does not constitute good cause. This matter has been pending for almost eight months. The parties' request that the scheduled hearing dates be vacated for the entire week is denied as well. The hearing date of February 24, 2015, will be vacated to allow the parties time to finalize a settlement agreement. If the parties have not notified OAH of settlement prior to 5:00 p.m. on February 24, 2015, of a full and final settlement, the matter will proceed on February 25, 2015, and continue, day to day, Monday through Thursday, at the discretion of the ALJ.

IT IS SO ORDERED.

DATE: February 23, 2015

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MARGARET BROUSSARD  
Administrative Law Judge  
Office of Administrative Hearings