

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

EL DORADO UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2015040244

ORDER DENYING REQUEST FOR
STATUS CONFERENCE; GRANTING
CONTINUANCE; AND SCHEDULING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING DATES

On November 13, 2015, the parties filed a joint request to vacate dates and schedule a status conference. The letter indicates that the parties have each signed a settlement agreement but have not exchanged signatures due to a potential logistical issue with a third party provider identified in the settlement agreement that may require additional modification. The parties represented that they anticipate the logistical issues can be resolved no later than Monday, November 16, 2015. The due process hearing in this matter is set to commence the same day.

A status conference will not be scheduled by the Office of Administrative Hearings unless a final settlement has been reached and copies of the signature pages submitted to OAH. Signature pages were not submitted to OAH and it is unclear whether or not a final agreement has actually been reached or a tentative agreement reached subject to revision based upon the actions of a third party. Accordingly, the request to vacate dates and schedule a status conference is denied.

The parties' joint request is considered a motion to continue the PHC and due process hearing dates currently scheduled in this matter.

APPLICABLE LAW

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 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. The parties will be given a brief continuance to resolve the outstanding issues regarding the third party provider included in their request. This matter has been pending since March 2015. No further continuance will be granted in this case.

Prehearing Conference:	November 20, 2015 at 10:00 AM
Due Process Hearing:	December 1, 2015 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.

DATE: November 13, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings