

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PLACER UNION HIGH SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015070009

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

On July 9, 2015, the Office of Administrative Hearings received a request to continue dates in this matter, filed by Student. Student asks for a three month continuance so that he can obtain legal counsel . On July 9, 2015, Placer Union High School District opposed the request for several reasons, including the pending maternity leave of its attorney (scheduled to begin in September) and because Placer has already begun preparing for hearing. This case was filed on June 29, 2015 and this is the first request for a continuance.

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. This matter was filed by Placer less than two weeks ago. Student has asked for a continuance to find an attorney to represent him in this case, where Placer has already retained an attorney. This case is recently filed and therefore Placer's contention that the continuance should not be granted because of the time and fees they have already expended to prepare for hearing does not override Student's right to obtain counsel. As to the maternity leave of the attorney for Placer, this was considered. However, Student will have to locate and attorney and the attorney will have to have time to prepare the case. There is still time for Placer to secure the services of another attorney, which they will have to do while the attorney is on maternity leave anyway. This matter will be set as follows:

Mediation:	October 1, 2015, at 9:30 a.m.
Prehearing Conference:	October 12, 2015, at 1:00 p.m.
Due Process Hearing:	October 20, 2015, at 9:30 a.m., October 21-22, 2015, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: July 10, 2015

/s/

MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings