

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015070657

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

On September 9, 2015, San Francisco Unified School District filed a request to continue the dates in this matter based upon counsel's unavailability due to another hearing and a desire for the parties to participate in mediation. The prehearing conference is scheduled to be held on September 18, 2015 and the hearing is scheduled to be held from September 28, 2015 through October 1, 2015. On September 9, 2015, Student filed a non-opposition to San Francisco's request.

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. Counsel for San Francisco, indicated that she is unavailable for the prehearing conference and the due process hearing because she will be representing another client in a Public Employment Relations Board hearing from September 14, 2015 through September 18, 2015. The dates of the other hearing do not conflict with the hearing dates set

in this matter and the prehearing conference could be rescheduled. Therefore, San Francisco has not established good cause for a continuance due to the unavailability of counsel. However, San Francisco's contention that both parties want to participate in a mediation prior to the hearing in an effort to resolve the case is compelling, particularly in light of one of the mediation dates being cancelled due to the unavailability of the scheduled mediator. Therefore, good cause is found to continue this matter. However, the parties should be aware that no further continuances will be granted unless extreme good cause is established. This matter will be set as follows:

Mediation:	September 30, 2015 at 9:30 AM
Prehearing Conference:	October 23, 2015 at 1:00 PM
Due Process Hearing:	November 3, 2015 at 9:30 AM, November 4 and 5, 2015 at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: September 10, 2015

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings