

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SOUTH BAY UNION SCHOOL
DISTRICT.

OAH Case No. 2015080573

ORDER PARTIALLY GRANTING
JOINT REQUEST FOR
CONTINUANCE AND SETTING NEW
MEDIATION, PREHEARING
CONFERENCE, AND DUE PROCESS
HEARING DATES

On September 25, 2015, the parties filed a joint request to set a date for a reconvened mediation, and to continue the prehearing conference and due process hearing in this matter. This is the first request for continuance made by either party.

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:

Partially Granted. All present dates are vacated. However, the parties have not shown good cause, by way of declaration, for requesting a continuance more than 90 days from the original date set for the hearing. This matter will therefore be set as follows:

Reconvened Mediation: November 12, 2015, at 9:30 a.m.
Prehearing Conference: December 28, 2015, at 10:00 a.m.
Due Process Hearing: January 5-7, 2016, starting at 9:30 a.m. on January 5, and at 9:00 a.m. on all other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: September 25, 2015

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings