

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:
CALIFORNIA MONTESSORI PROJECT-
ELK GROVE,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012070210

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

On July 17, 2012, Parent filed a request to continue the dates in this matter for 60 days on the ground that she and Student are without legal representation and are seeking an attorney to represent them. The California Montessori Project – Elk Grove (Project) did not file a response.

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. The Project originally served the complaint on an attorney, but it appears that the attorney served does not represent Student, and that at present Student and Parent are unrepresented. Parent is entitled to a reasonable amount of time in which to obtain counsel. The Project does not oppose the request.

All dates are vacated. This matter will be set as follows:

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|------------------------|----------------------------|
| Mediation: | Sept. 26, 2012, at 9:30 AM |
| Prehearing Conference: | Oct. 3, 2012, at 10 AM |
| Due Process Hearing: | Oct. 11, 2012, at 9:30 AM |

IT IS SO ORDERED.

Dated: July 23, 2012

/s/

CHARLES MARSON
Acting Presiding Administrative Law Judge
Office of Administrative Hearings