

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014010591

ORDER GRANTING REQUEST TO
CONTINUE THE PREHEARING
CONFERENCE AND VACATING
MAY 1, 2014 DUE PROCESS
HEARING DATE

The due process hearing in this matter is currently set for May 1, 5 and 6, 2014, and the prehearing conference is scheduled for April 21, 2014. On April 21, 2014, Administrative Law Judge (ALJ) Adeniyi A. Ayoade, Office of Administrative Hearings (OAH), convened a telephonic prehearing conference in this matter. Nicole Jamieson, attorney for Student, Student's Mother, and Cathy Holmes, attorney for Elk Grove Unified School District (Elk Grove) participated.

Request for Continuance

At the beginning of prehearing conference, the attorneys for the parties jointly requested that the prehearing be conference be continued and rescheduled for April 25, 2014, and that the May 1, 2014 hearing date be vacated, in order to afford the parties additional time to explore resolution of case without the need for a hearing. According to the attorneys, both parties are currently in settlement negotiation.

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 (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 parties' request for good cause and considered all relevant facts and circumstances. Good cause is established for continuing the prehearing conference, and for vacating the first day of the due process hearing in this matter. Accordingly, the parties' request to continue the prehearing conference, and vacate the May 1, 2014 due process hearing date, is:

Granted. The prehearing conference and the due process hearing dates are set as follows:

Prehearing Conference: April 25, 2014, at 1:00 PM

Due Process Hearing: May 5-6, 2014, at 9:30 AM, and **continuing day-to-day thereafter at the discretion of the ALJ.**

IT IS SO ORDERED.

DATE: April 21, 2014

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings