

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DIXIE ELEMENTARY SCHOOL  
DISTRICT.

OAH Case No. 2014110335

ORDER GRANTING REQUEST FOR  
CONTINUANCE IN PART AND  
SETTING PREHEARING  
CONFERENCE AND HEARING  
DATES

On November 4, 2014, Student filed a request for due process hearing, naming Dixie Elementary School District. The matter was set for a prehearing conference on December 8, 2014 and the hearing was set to begin on December 16, 2014.

On November 21, 2014, Student filed a request to continue the dates for the prehearing conference and hearing in this matter, due to Parent's unavailability on the dates currently set for the PHC and hearing. Student asked for a PHC date of December 8, 2014, and a hearing date of December 12, 2014. This is the first request for a continuance. District did not oppose the request for continuance, but requested a PHC date of December 5, 2014.

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. However, the PHC and hearing will be set on dates other than those requested by the parties. This matter will be set as follows:

Prehearing Conference: March 6, 2015, at 1:00 p.m.  
Due Process Hearing: March 17, 2015, at 9:30 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: November 24, 2014

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REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings