BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of:<br><br>SAN MATEO FOSTER CITY SCHOOL DISTRICT,<br><br>v.<br><br>PARENTS ON BEHALF OF STUDENT. | OAH Case No. 2016080688<br><br>ORDER FOLLOWING PREHEARING CONFERENCE, GRANTING REQUEST FOR CONTINUANCE, AND SETTING PREHEARING CONFERENCE AND HEARING DATES |

On October 17, 2016, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Alejandro Leon and Abbe Anderson, Attorneys at Law, appeared on behalf of San Mateo Foster City School District. Father appeared on behalf of Student. There was no appearance by Mother.[1] The PHC was recorded.

Based upon discussion with the parties, the ALJ issues the following order:

1. San Mateo-Foster City's Request for Continuance. At the start of the PHC, San Mateo-Foster City requested a continuance of the hearing dates due to the unavailability of a key witness, the school psychologist, because of a family emergency. Father did not oppose a continuance. This is the second request for a continuance.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

[1] The ALJ attempted to reach the Mother at the phone number on file at 1:00 p.m., and again at 1:10 p.m. Both times the call went to a voicemail system. The ALJ left messages that in the event the ALJ could not reach the Mother, the PHC would proceed in her absence.

San Mateo Foster City established good cause for a continuance. All dates were vacated and the matter was set as follows:[2]

| | |
|---|---|
| Prehearing Conference: | November 28, 2016, at 3:00 p.m. |
| Due Process Hearing: | December 6, 2016, at 9:30 a.m., December 7, 2016, at 9:00 a.m., and continuing day to day, Monday-Thursday, as needed at the discretion of the ALJ. |

The hearing shall take place at San Mateo Foster City's District Office located at 1170 Chess Drive, Foster City, California, 94404. As ordered in the scheduling order, San Mateo Foster City shall provide a facility for the hearing that fully complies with the Americans with Disabilities Act of 1990 (42 U.S.C.A. § 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), the Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and all laws governing accessibility of government facilities to persons with disabilities. San Mateo Foster City has not yet certified that the facilities used for this case comply with the law. **San Mateo Foster City shall file a written certification with OAH within two days of the date of this order.**

2. Notice to Witnesses. The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing good cause to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

3. Other Matters. All other matters relevant to preparing for hearing, including clarification of the issues and identification of witnesses and exhibits, will be addressed at the telephonic PHC on November 28, 2016. **Father is ordered to serve a copy of his PHC statement on San Mateo-Foster City's counsel and file the proof of service with OAH.**

4. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different

[2] During the PHC, the ALJ informed the parties that it was her understanding that Student cancelled the prior mediation set for September 28, 2016. Father represented that he appeared for the mediation and no one else was present. Following the PHC, the ALJ checked the case docket. San Mateo-Foster City cancelled the September 28, 2016 mediation on the afternoon of September 27, 2016. The case docket indicates that OAH staff informed Parents of this late cancellation. The parties are encouraged to submit a request for mediation if they wish to participate.

arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

IT IS SO ORDERED.

DATE: October 17, 2016

DocuSigned by:
Theresa Ravandi
180B9BDB98E5424...

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings