

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA BARBARA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012110048

ORDER FOLLOWING PREHEARING
CONFERENCE, GRANTING
CONTINUANCE AND SETTING NEW
PREHEARING AND HEARING
DATES

On January 9, 2013, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Theresa Ravandi, Office of Administrative Hearings (OAH). Andrea Marcus, Attorney at Law, appeared on behalf of Student. Mary L. Kellogg, Attorney at Law, appeared on behalf of the Santa Barbara Unified School District (District). The PHC was recorded.

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

1. Motion for Continuance: This matter is currently set for hearing on January 22-23, 2013, although the parties estimate a need for five days of hearing. As ordered in the November 29, 2012 order granting the initial joint request for continuance, the parties discussed their availability to add consecutive hearing days, including January 24- 25, 2013. The District is unavailable for hearing on January 24, 2013, due to a compliance review and the District's representative is unavailable January 25 and January 28, 2013, due to a pre-arranged vacation. OAH is unavailable for hearing on January 29-31, 2013, due to a mandatory state-wide training for all special education ALJ's. Student prefers that the hearing proceed on consecutive days. The parties requested to continue the hearing to the week of February 11, 2013.

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).)

There is good cause to continue the hearing due to the pre-scheduled compliance review for the District, the unavailability of OAH due to mandatory training, and the need to calendar multiple consecutive hearing days. The joint request for continuance is granted. All dates are vacated. Counsel agreed to the following dates and the matter will be set as follows:¹

Prehearing Conference:	January 23, 2013 at 10:00 AM
Due Process Hearing:	February 11, 2013 at 1:30 PM and February 12-15, 2013 at 9:00 AM. The hearing shall continue day-to-day thereafter, starting February 19, 2013 at 1:30 PM, as needed, at the discretion of the ALJ.

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. The District filed a Motion to Dismiss Student's complaint shortly before the start of the PHC. Student has three business days to reply and OAH will issue a separate written order. All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits will be addressed at the PHC on January 23, 2013.

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 the PHC and hearing will not be cancelled until a letter of withdrawal or request for dismissal with the signature page of the signed agreement has been received by OAH.

IT IS SO ORDERED.

Dated: January 10, 2013

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

¹ Counsel may contact OAH to schedule a mediation date prior to the hearing.