

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HAYWARD UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012110597

ORDER FOLLOWING PREHEARING
CONFERENCE AND ORDER
GRANTING CONTINUANCE

On February 11, 2013, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Peter Paul Castillo, Office of Administrative Hearings (OAH). Nicole Hodge Amey, Attorney at Law, appeared on behalf of Student. James Meeker, Attorney at Law, appeared on behalf of Hayward Unified School District (District). The PHC was recorded.

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

1. Continuance Request. This matter is presently set for hearing on February 19, 2013, and continuing from day to day. At the February 11, 2013 PHC, the District requested a continuance due to Mr. Meeker's medical issue. Student opposed the request due to a concern about OAH granting a lengthy- 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) (2006); 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).) The District established good cause for a continuance based Mr. Meeker's incapacitation.¹

Therefore, the PHC and the due process hearing are continued. The PHC shall take place on February 27, 2013, at 1:30 p.m.,² and the due process hearing shall take place on

¹ The District agreed to submit by 5:00 p.m. on February 15, 2013, a brief declaration from Mr. Meeker as to his incapacitation and a note from his doctor.

² Student need not file any amended PHC statements, and the District's PHC statement, and any amendment by Student, are due to OAH and opposing parties by 5:00 p.m. on February 22, 2013.

March 6 – 8, 2013. The hearing shall begin at 9:00 a.m. and end at 5:00 p.m., except for March 6, 2012, when the hearing shall begin at 9:30 a.m., unless otherwise ordered. The hearing shall take place at the District's offices, located at 24411 Amador Street, Hayward, California 94540.³

2. Settlement. The parties are encouraged to continue their attempts 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. If a settlement is reached five business days or fewer before the due process hearing is scheduled to begin, the parties shall, in addition, immediately inform OAH of that fact by telephone at (916) 263-0880. 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 arrangements have been agreed upon by the assigned ALJ. IF A FULL AND FINAL SETTLEMENT IS REACHED AFTER 5:00 P.M. ON THE LAST BUSINESS DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035, AND SHALL ALSO LEAVE CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. The ALJ will check for messages the evening prior to the hearing and the morning of the hearing.

3. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

Dated: February 12, 2013

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

³ At a minimum for the hearing, the room shall have separate tables capable of being moved into a courtroom configuration, as follows: (1) one table for Student's representatives; (2) one table for the District's representatives; (3) one table for the ALJ with a nearby electrical outlet; and (4) one witness table. The District shall ensure that all parties and the ALJ have drinking water and tissue available to them.