

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SOUTHSIDE SCHOOL DISTRICT, SAN
BENITO COUNTY OFFICE OF
EDUCATION, AND THE CALIFORNIA
DEPARTMENT OF EDUCATION.

OAH CASE NO. 2012090044

ORDER FOLLOWING PREHEARING
CONFERENCE, GRANTING JOINT
REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING
CONFERENCE AND HEARING
DATES

On February 20, 2013, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Theresa Ravandi, Office of Administrative Hearings (OAH). Colleen Snyder, Attorney at Law, appeared on behalf of Student. Laurie Reynolds, Attorney at Law, appeared on behalf of the Southside School District (District) and San Benito County Office of Education (County). Peter Stubbs, Attorney at Law, appeared on behalf of the California Department of Education (CDE). The PHC was recorded.

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

1. Motion for Continuance: This matter is set for hearing on February 26 through 27, 2013. Prior to the start of the PHC, the parties filed a joint request for a continuance in order to allow additional time for an independent evaluator to observe possible placement options and to convene an individualized education program (IEP) team meeting to review the results of additional assessments. The parties seek additional time to work toward a resolution. There has been one prior continuance of this matter.

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).)

The parties have established good cause to continue the hearing and the request is granted. **No further continuances shall be granted without a showing of substantial good cause.** All dates of vacated. The matter will be set as follows:

Mediation:	March 26, 2013 at 9:30 AM
Prehearing Conference:	April 15, 2013 at 10:00 AM
Due Process Hearing:	April 22, 2013 at 1:30 PM, April 23 through 25, 2013 at 9:00 AM ¹

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 CDE has not filed a PHC statement in this matter and is ordered to do so at least three business days prior to the next PHC. 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 April 15, 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 signature page of a signed agreement has been received by OAH.

IT IS SO ORDERED.

Dated: February 20, 2013

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

¹ At the PHC, the parties shall be prepared to discuss adding Friday, April 26, 2013, as an additional hearing day. The parties are advised that OAH is unavailable to conduct hearings the week of April 29, 2013, due to mandatory, state-wide training for all special education ALJ's.