

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STANISLAUS UNION SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2013050308

ORDER FOLLOWING PREHEARING
CONFERENCE CONTINUING
PREHEARING CONFERENCE ONLY

Hearing in this matter is now set for September 23 through 26, 2013. On September 13, 2013, a telephonic prehearing conference (PHC) in this matter was convened before Administrative Law Judge Deidre L. Johnson (ALJ), Office of Administrative Hearings (OAH). Attorney S. Diane Beall appeared on behalf of the Stanislaus Union School District (District). Attorney Roger A. Greenbaum appeared on behalf of Student and Parents (Student). The PHC was recorded. Based on discussion with the parties, the following order is issued:

1. Motion for Continuance: On September 13, 2013, Student filed a request for a continuance which was not received by OAH or District prior to the start of the PHC. During the PHC, Student's attorney orally explained the request is based on the attorney's current involvement in another due process hearing before OAH, in a matter bearing primary OAH Case Number 2012100242. OAH generally allows three business days after receipt of the motion for the opposing party's response. However, because the due process hearing is set to begin on Monday, September 23, 2013, OAH should swiftly rule on the motion. Therefore, the ALJ has shortened the time for District's response, as follows:

- (a) District has until 11:00 a.m. on Monday September 16, 2013, within which to file and serve a written response to Student's motion.
- (b) OAH shall rule on Student's motion for a continuance prior to or in connection with the continued PHC in this matter, as ordered below.

2. Continuance of PHC only: In the OAH scheduling order issued in this case on May 9, 2013, OAH ordered both parties to file written PHC statements at least three business days prior to the PHC. In connection with a prior PHC held on August 5, 2013, Student did not file a PHC statement. During that PHC and in the Order that followed, Student was ordered to file a PHC statement not less than three business days prior to September 13, 2013. To date, Student has failed to file and serve any PHC statement disclosing his lists of

witnesses and documentary exhibits to OAH or District. Student's attorney indicated during the present PHC that he inadvertently forgot to file a PHC statement due to his immersion in his other case under stressful circumstances. OAH is obligated to proceed to prepare for hearing and the District has to right to have notice of Student's intended witnesses and documents in order to prepare for hearing. In order to accommodate Student's attorney and nevertheless proceed to prepare for hearing, the ALJ ordered the PHC to be briefly continued, as follows:

(a) Student has until 11:00 a.m. on Monday September 16, 2013, within which to file and serve a written PHC statement.

(b) The PHC is continued to 1:00 p.m. on Monday, September 16, 2013.¹

3. Other Matters: All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the PHC. All hearing dates remain as scheduled.

4. Settlement: Dates for the PHC and the hearing will not be cancelled until a letter of withdrawal, or a request for dismissal with the signature page of the signed agreement has been received by OAH. If the settlement agreement has been executed but is subject to approval of a school board, the parties may file a motion for OAH to vacate the hearing dates and set a telephonic status conference (TSC) for a Wednesday about two weeks following board approval.

Dated: September 13, 2013

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

¹ Student's attorney was advised by the ALJ during the PHC that if he fails to file a PHC statement as ordered, OAH will consider issuing an order to show cause why sanctions should not be imposed.