

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TWIN RIVERS UNIFIED SCHOOL
DISTRICTS.

OAH CASE NO. 2013100450

ORDER FOLLOWING PREHEARING
CONFERENCE GRANTING JOINT
REQUEST FOR CONTINUANCE AND
SETTING NEW DATES

This matter is set for hearing beginning on December 5, 2013. On November 25, 2013, a telephonic prehearing conference (PHC) in this matter was held before Administrative Law Judge Deidre L. Johnson (ALJ), Office of Administrative Hearings (OAH). Attorney Nicole Hodge Amey appeared on behalf of Student and Parent (Student). Attorney Heather M. Edwards appeared on behalf of the Twin Rivers Unified School District (District). The PHC was recorded.

1. Motion for Continuance: On November 25, 2013, the parties jointly filed a request to continue the hearing in this matter on the grounds that a prior mediation was not held due to illness of Student's attorney, and both parties request the opportunity to resolve the case in mediation prior to hearing.

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).)

No previous request for a continuance has been granted in this matter. The parties established cause for a continuance to support the voluntary mediation prior to the hearing. A continuance is therefore granted and the previously set hearing dates are vacated. Based on the available dates for OAH and the parties, this matter is set as follows:

Mediation: December 12, 2013, at 9:30 a.m.

Prehearing Conference: February 7, 2014, at 10:00 a.m.

Hearing: February 18, 2014, at 1:30 p.m.,¹
February 19 and 20, 2014, at 9:00 a.m.,² and
continuing thereafter day to day, Monday through
Thursday as needed in the discretion of the ALJ.³

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 purpose 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 issues and identification of witnesses and exhibits, will be addressed at the next PHC.

4. Settlement: Dates for 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. In the event a settlement agreement is executed subject to board approval, the parties may request to continue the hearing and set a telephonic status conference call following the date anticipated for board approval. The parties should otherwise plan to attend the scheduled PHC and the hearing unless different arrangements have been agreed upon by the assigned ALJ, or ordered by OAH.

Dated: November 25, 2013

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

¹ If ALJ Johnson remains assigned to this case, the hearing will start at 9:30 a.m.

² On February 20, 2014, the hearing will end by 2:00 p.m. to accommodate Ms. Amey's schedule.

³ If ALJ Johnson remains assigned to this case, Friday, February 21, 2014, is available to finish the hearing.