

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013060641

ORDER FOLLOWING PREHEARING
CONFERENCE AND GRANTING
CONTINUANCE

This matter is set for hearing beginning on December 16, 2013. On December 9, 2013, a telephonic prehearing conference (PHC) in this matter was held before Administrative Law Judge Margaret M. Broussard (ALJ), Office of Administrative Hearings (OAH). Attorney Daniel Shaw appeared on behalf of Student (Student), Attorney Cathy Holmes appeared on behalf of the Elk Grove Unified School District (District). The PHC was recorded.

1. Motion for Continuance: At the prehearing conference, the parties made a joint motion to continue the matter. The continuance was requested because the parties had entered into an interim agreement which called for several assessments to be completed and an IEP team meeting to be held. The assessments have been completed and the IEP team meeting was held last week. Parent has not yet indicated whether she disagrees with the District's placement offer, and Parent has indicated that she would like at least one independent educational evaluation. The District intends to file a case to defend its assessment(s) and, if Parent does not agree to the new IEP, for a determination that the IEP offers FAPE. The District and Student agreed that when the District files its case, both parties will jointly ask that the cases be consolidated.

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 APA 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).)

Based on good cause shown, the request for continuance is granted. All dates are vacated. HOWEVER, NO FURTHER CONTINUANCES WILL BE GRANTED IN THIS MATTER. If the case is consolidated, the consolidated matter will also take place on the dates below. Both parties will remind OAH that the matter will proceed on the dates below in any motion to consolidate or motion to amend. Failure by either party to note that the matter will continue on the dates below will be sanctionable. This matter is set for the following dates and times:

Prehearing Conference: March 3, 2014, at 3:00 p.m.

Hearing: March 17 and 24, 2014, at 1:30 p.m.,
March 18, 19, 20, 25 and 26, at 9:00 a.m., and
continuing thereafter day to day, Monday through
Thursday as needed in the discretion of the ALJ.

3. 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.

4. 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. The parties may request OAH to schedule a voluntary mediation date prior to the hearing.

5. 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.

IT IS SO ORDERED.

Dated: December 9, 2013

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings