

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. 2013110151

ORDER FOLLOWING PREHEARING
CONFERENCE CONTINUING
PREHEARING CONFERENCE ONLY

Hearing in this matter is set to begin on December 26, 2013. On December 16, 2013, a telephonic prehearing conference (PHC) in this matter was convened before Administrative Law Judge Deidre L. Johnson, Office of Administrative Hearings (OAH). Attorney Christian Knox appeared for Student and Parent (Student). Attorney Cathy Holmes appeared on behalf of the Elk Grove Unified School District (District). The PHC was recorded.

1. Motion for Continuance: Both parties requested a continuance of the PHC only, based on a pending settlement of the case.

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 represented that a settlement agreement has been negotiated and is in the process of being circulated for final approval and signatures. In the absence of an executed settlement agreement, the hearing may not be dropped from the calendar but the PHC may be continued to support the settlement process. The parties established good cause and the request is:

☒ Granted. The telephonic PHC will be set for the following date and time:

December 18, 2013, at 1:00 p.m.

2. 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 continued PHC. The parties shall file prehearing conference statements by 10:00 a.m. on December 18, 2013. The hearing dates remain as scheduled.

3. 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 the school board, the parties may file a motion for OAH to vacate the hearing dates and set a telephonic status conference for a date following board approval.

IT IS SO ORDERED.

Dated: December 16, 2013

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings