

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

WEST CONTRA COSTA UNIFIED
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013110786

ORDER FOLLOWING PREHEARING
CONFERENCE AND ORDER
CONTINUING PREHEARING
CONFERENCE AND HEARING

On December 16, 2013, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Rebecca Freie, Office of Administrative Hearings (OAH). Shawn Olson Brown, Attorney at Law, appeared on behalf of West Contra Costa Unified School District (District). Also present with Ms. Brown was Alejandra Leon, Attorney at Law. Mother appeared on behalf of Student. The PHC was recorded.

Based on discussion of the parties, the ALJ issues the following order:

At the previous PHC held on December 13, 2013, Mother indicated that she was attempting to enroll Student in another school district. On December 16, 2013, the District indicated that it had contacted that other school district and been told that the transfer process could take as long as 30 days. Therefore, the District asked to continue both the PHC and the hearing for a period of time that would allow the other district to determine whether or not it would accept Student. At the previous PHC, the District informed the ALJ that it would dismiss this matter if Student was the responsibility of another school district pursuant to Student's residence changing, or an inter-district transfer. Mother did not oppose the District's request for a continuance.

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 for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a

party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

The PHC and hearing are continued for good cause. The PHC shall take place on January 10, 2014, at 3:00 p.m. The due process hearing shall take place on January 21 and 22, 2014, beginning at 9:30 a.m. on the first day, and 9:00 a.m. on the following day. The hearing may continue day to day, Monday through Thursday as needed, at the discretion of the ALJ.

All remaining matters, including the location of the hearing, and a statement of the issues in the case shall be discussed at the PHC on January 10, 2014.

IT IS SO ORDERED.

Dated: December 16, 2013

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings