

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

OAKLAND UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014050059

ORDER FOLLOWING PREHEARING
CONFERENCE, GRANTING
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING DATES

On May 19, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Theresa Ravandi, Office of Administrative Hearings (OAH). Lenore Silverman, Attorney at Law, appeared on behalf of Oakland Unified School District (Oakland). LaJoyce Porter, Attorney at Law, appeared on behalf of Parent and Student. The PHC was recorded.

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

1. Motion to Continue. This matter was scheduled for hearing beginning on May 22, 2014. On May 16, 2014, Oakland filed a written notice that both Student and Oakland agreed to continue the PHC and hearing dates in this matter at the conclusion of the mediation scheduled on May 16, 2014, but that there was no agreement as to dates for the continuance. During the PHC, both parties argued their positions regarding the scheduling of the continued hearing.

Oakland requested a date in September 2014, due to the calendar conflicts of its counsel who has multiple hearings in June and July 2014, a pre-arranged vacation the beginning of July and a federal court appearance in the middle of July 2014. Oakland also argued that key witnesses would not be available during the summer vacation.

Student argued that he would be prejudiced by delaying the hearing beyond July 2014, as Oakland has determined that he is not eligible for special education and denied his request for an independent educational evaluation in April 2014, and this hearing may result in an order that Oakland fund his requested assessment.

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' request for continuance is granted. Having weighed the arguments of counsel, the undersigned finds that Oakland has established good cause to continue this matter approximately 90 days due to scheduling conflicts on the part of its counsel. All dates are vacated and the matter will be set as follows:

Prehearing Conference: August 11, 2014, at 1:00 p.m.

Due Process Hearing: August 20, 2014, at 9:30 a.m., August 21, 2014, at 9:00 a.m. and August 25, 2014, at 1:30 p.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

The hearing shall take place at the Oakland OAH office located at 1515 Clay Street, Suite 206, Oakland, California 94612.

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 purposes 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 PHC on August 11, 2014. The parties are reminded that they are to file a PHC statement at least three business days prior to the continued PHC date and serve this statement on opposing counsel in compliance with the OAH Scheduling Order dated May 2, 2014.

4. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. Dates for the PHC and hearing will not be cancelled unless a letter of withdrawal or a request for dismissal with the signature pare of a signed agreement has been received by OAH.

IT IS SO ORDERED.

DATE: May 19, 2014

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings