

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2013120195

ORDER FOLLOWING PREHEARING
CONFERENCE, GRANTING MOTION
TO CONTINUE, AND SETTING NEW
PREHEARING CONFERENCE AND
HEARING DATES

This matter is currently set for hearing beginning on May 27, 2014. On May 16, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Margaret M. Broussard, Office of Administrative Hearings. Dawn Davis, mother of Student, appeared on behalf of Student. Jennifer Rowe Gonzalez, Attorney at Law, appeared on behalf of the Oakland Unified School District (Oakland) and was accompanied by John Rusk, Oakland's representative. The PHC was recorded.

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

1. Motion for Continuance: At the prehearing conference, Student's mother made a motion to continue the PHC in this matter because she was ill in bed with the flu and Student was not available. Oakland did not oppose the motion, except to ask that the first day of hearing be vacated so that the disclosure deadline in this case be delayed until the prehearing conference was completed.

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).)

Based on good cause shown, the request for continuance is granted. All dates are vacated and the matter is scheduled as follows:

Prehearing Conference: May 19, 2014, at 10:00 a.m.

Hearing: May 28, 2014, at 9:30 a.m. and May 29, 2014, at 9:00 a.m., and continuing thereafter, day to day, Monday through Thursday as needed in the discretion of the ALJ.

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.

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.

Because he has turned 18 years old, Student must be present at the prehearing conference with his mother or submit to OAH, in writing, a letter transferring his educational rights to his parent.

Student and his mother will participate by telephone in the prehearing conference at the following location:

**Marcus Foster Campus
2850 West Street
Oakland, Ca. 94608**

4. Student's Prehearing Conference Statement: Student will bring a copy of his prehearing conference statement to the Marcus Foster Campus at the time of the prehearing conference and give a copy to John Rusk. Mr. Rusk will fax a copy to his attorney and OAH upon his receipt of the statement.

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.

DATE: May 16, 2014

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings