

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ANTIOCH UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014020388

ORDER FOLLOWING PREHEARING
CONFERENCE; ORDER GRANTING
CONTINUANCE

On June 16, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Peter Paul Castillo, Office of Administrative Hearings. Student's Mother appeared on behalf of Student. Lenore Silverman and David Mishook, Attorneys at Law, appeared on behalf of Antioch Unified School District. The PHC was recorded.

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

1. Request for a Continuance. On June 12, 2014, Student made a request for a one month continuance as Student was awaiting a report from her expert, and needed to find new legal counsel. District did not oppose the continuance request in its June 13, 2014 response, but requested a sixty day continuance due to witness unavailability. 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) (2006); 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).)

Student established good cause for a continuance for the completion of the report by her expert and to seek new legal counsel. District established good cause for a sixty day continuance due to witness unavailability. Therefore, the PHC and the due process hearing are continued. The PHC shall take place on August 15, 2014, at 10:00 a.m.,¹ and the due process hearing shall take place on August 25 through 28, 2014. The hearing shall begin at 9:00 a.m. and end at 5:00 p.m., except for August 25, 2014, when the hearing shall begin at 1:30 p.m., unless otherwise ordered.² The hearing shall take place at the District's offices,

¹ Student need not file an additional PHC statement. Any amendment by Student is due to OAH and the opposing party by 5:00 p.m. on August 12, 2014. District will need to submit its PHC statement by that date.

² If the parties wish to have a mediation date, they shall meet and confer as to a mutually agreeable date and contact OAH to schedule the mediation.

located at 510 G Street, Antioch, California 94509.³ No further continuances shall be granted.

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.

2. Settlement. The parties are encouraged to continue their attempts 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. If a settlement is reached five business days or fewer before the due process hearing is scheduled to begin, the parties shall, in addition, immediately inform OAH of that fact by telephone at (916) 263-0880. Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. IF A FULL AND FINAL SETTLEMENT IS REACHED AFTER 5:00 P.M. ON THE LAST BUSINESS DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035, AND SHALL ALSO LEAVE CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. The ALJ will check for messages the evening prior to the hearing and the morning of the hearing.

3. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: June 16, 2014

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

³ At a minimum for the hearing, the room shall be accessible and have separate tables capable of being moved into a courtroom configuration, and be accessible, as follows: (1) one table for Student's representatives; (2) one table for District's representatives; (3) one table for the ALJ with a nearby electrical outlet; and (4) one witness table. District shall ensure that all parties and the ALJ have drinking water and tissue available to them.