

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 AND GRANTING
REQUEST TO CONTINUE
PREHEARING CONFERENCE ONLY

On August 11, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Shawn Olson Brown and Maria Asturias, Attorneys at Law, appeared on behalf of Oakland Unified School District (Oakland). LaJoyce L. 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 Prehearing Conference. This matter is scheduled for hearing beginning on August 20, 2014. On August 11, 2014, Oakland filed a motion to continue the PHC and Student filed a response joining Oakland's request.¹ Oakland requested the continuance due to the fact that its assigned attorney, Lenore Silverman, although available remotely to conduct the PHC, did not have access to Student's PHC statement which was filed after 9:00 a.m. on August 11, 2014. Student did not timely file his PHC statement and contends this is because he did not timely receive a copy of Oakland's PHC statement.

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.,

¹ The ALJ received and considered Student's response prior to the PHC, but did not receive a copy of Oakland's written motion to continue until after the PHC. The facsimile transmission confirms that Oakland faxed its request to continue to OAH at 12:09 p.m. on August 11, 2014. Oakland was given the opportunity to verbally present its request in full.

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 of the PHC only is granted. The PHC will be held on Friday, August 15, 2014, at 3:00 p.m. **All other dates for hearing remain as previously set.**

2. Notice to Witnesses. As previously ordered, 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 the issue and identification of witnesses and exhibits, will be addressed at the PHC on August 15, 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 page of a signed agreement has been received by OAH.

IT IS SO ORDERED.

DATE: August 11, 2014

/s/
THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings