

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WEST COVINA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014040099

ORDER FOLLOWING PREHEARING
CONFERENCE

On August 8, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Marian H. Tully, Office of Administrative Hearings (OAH). Kathleen M. Loyer, Attorney at Law, appeared on behalf of Student. Sundee M. Johnson, Attorney at Law, appeared on behalf of West Covina Unified School District (District). The PHC was recorded.

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

1. Mediation, Prehearing Conference, Hearing Dates, Times, and Location. On August 8, 2014, the parties filed a stipulation to set mediation and continue the PHC and due process hearing to agreed dates. The parties requested the continuance because additional time is needed in order to review assessments and hold an IEP meeting pursuant to an interim agreement in this matter dated April 23, 2014. Accordingly, the matter is continued as follows:

Mediation:	August 19, 2014 at 9:30 a.m.
Prehearing Conference:	October 27, 2014 at 10:00 a.m.
Due Process Hearing:	November 4, 5, 6, 10, 2014, and continuing day to day, Monday through Thursday as needed at the discretion of the ALJ. The hearing shall begin at 9:30 a.m. the first day, and at 9:00 a.m. all other days with the exception of November 10, 2014 which shall begin at 1:30 p.m., unless otherwise ordered. Hearing days end at 5:00 p.m. unless otherwise ordered.

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 has been shown for this second joint request to continue this matter. However, OAH does not anticipate any further

requests to continue the dates set. The parties will have had more than ample time for settlement discussions.

The mediation and due process hearing shall take place at District offices located at 1717 West Merced Ave., West Covina, California, 91790.

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. PHC Statements, Witness and Exhibit Lists. PHC statements, witness and exhibit lists have been filed by both parties. The parties shall serve their exhibits on each other in compliance with Education Code section 56505, subdivision (e)(7). Additional prehearing conference statements, witness and exhibit lists need only be filed if the parties have changed their positions on the issues or evidence. All other prehearing matters will be addressed at the PHC on October 27, 2014.

3. 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. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035. THE PARTIES SHOULD ALSO LEAVE CONTACT INFORMATION SUCH AS CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. THE PARTIES SHOULD SIMULTANEOUSLY FAX THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT THE FAXINATION LINE at 916-376-6319.

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. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement as noted above, the parties shall submit a request for a status conference and provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

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

IT IS SO ORDERED.

DATE: August 08, 2014

/s/

MARIAN H. TULLY

Administrative Law Judge

Office of Administrative Hearings