

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

SANTA ROSA CITY SCHOOLS,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014040994

ORDER FOLLOWING PREHEARING
CONFERENCE; GRANTING REQUEST
TO CONTINUE THE PREHEARING
CONFERENCE

On August 25, 2014, a telephonic prehearing conference was convened by Administrative Law Judge Adeniyi A. Ayoade, Office of Administrative Hearings. Student's Parent appeared on behalf of Student. Carl D. Corbin, Attorney at Law, appeared on behalf of the Santa Rosa Unified School District. The PHC was recorded. Based on discussion of the parties, the ALJ issues the following order:

Motion to Continue Prehearing Conference Date

On August 25, 2014, Parent filed with OAH a motion to continue the prehearing conference on the ground that Santa Rosa failed to serve their prehearing conference statement on her. Student contends that she is prejudiced by the failure as she was unable to properly prepare for the prehearing conference not knowing who Santa Rosa's witnesses are. Attorney, for Santa Rosa opposed the motion to continue the prehearing conference, while insisting that Santa Rosa's prehearing conference statement was properly served upon Parent by email, as Parent had requested. During the prehearing conference, Parent indicated that, to date, she has not received Santa Rosa's prehearing conference statement.¹

APPLICABLE LAW AND DISCUSSION

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 may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material

¹ OAH will send a copy of Santa Rosa's prehearing conference statement to Parent.

evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

The ALJ has evaluated the arguments in support of, and in opposition to, the motion to continue the prehearing conference date, and considered all relevant facts and circumstances. Good cause is found for a continuance of the prehearing conference. Accordingly, the request to continue the prehearing conference is:

☒ Granted. The prehearing conference is continued and reset as follow:

Prehearing Conference: **August 29, 2014, at 9:00 a.m.**

The due process hearing dates previously set in the consolidated matters of OAH Case No. 2014030127 and 2014040994 are confirmed.² No further continuance would be granted without a showing of good cause.

IT IS SO ORDERED.

DATE: August 25, 2014

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings

² Pursuant to Student's Notice of Withdrawal filed with OAH on August 25, 2014, Case No. 2014030127 has been withdrawn by Student, and that case is now closed.