

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WEST CONTRA COSTA UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2014071080

ORDER FOLLOWING AND
CONTINUING PREHEARING
CONFERENCE

On September 8, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Valerie J. Mulhollen, Attorney at Law, appeared on behalf of Student. Shawn Olson Brown, Attorney at Law, appeared on behalf of West Contra Costa Unified School District (District). The PHC was recorded.

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

1. Motion to Continue Prehearing Conference. On September 5, 2014, the parties requested that OAH calendar mediation in this matter for September 9, 2014, due to District being unavailable for the previously calendared mediation date. OAH informed the parties on September 8, 2014, that their request for mediation was granted. The parties requested that the PHC be continued until after the scheduled mediation so that they could focus on settlement and potentially avoid further costs of preparing for hearing in the event the matter is resolved.

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).)

The parties established good cause for a continuance of the PHC only. The PHC will now be held on Friday, September 12, 2014, at 10:00 a.m. All other dates for hearing remain as previously set.

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. 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 prehearing conference on September 12, 2014. The parties represent that they have agreed to a late exchange of their documentary evidence which ordinarily would be due at least five business days prior to the scheduled hearing date pursuant to Education Code section 56505, subdivision (e)(7).

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 PHC and hearing dates. Dates for the PHC and hearing will not be cancelled unless OAH receives a letter of withdrawal or request for dismissal with the signature page of a signed agreement, or unless otherwise ordered.

IT IS SO ORDERED.

DATE: September 8, 2014

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings