

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014120167

ORDER FOLLOWING PREHEARING
CONFERENCE

On January 5, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Rebecca Freie, Office of Administrative Hearings (OAH). Jean Murrell Adams, Attorney at Law, appeared on behalf of Student. Lenore Silverman, Attorney at Law, appeared on behalf of Oakland Unified School District. She was assisted by Alejandra Leon, Attorney at Law. The PHC was recorded.

On December 30, 2014, District submitted a request for continuance due to the unavailability of counsel. This is the initial request for continuance. Student's attorney indicated on the record that Student did not oppose the continuance. The matter is currently set for hearing to begin on January 14, 2015.

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 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).)

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

1. Hearing Dates, Times, and Location. The PHC and hearing are continued on motion of Student. New dates are as follows:

Telephonic PHC on April 3, 2015, at 10:00 a.m.

Due Process Hearing on April 14, 2015, at OAH, 1515 Clay Street, Suite 206, Oakland, California 94612, commencing at 9:30 a.m., and continuing day to day, Monday through Thursday as needed, at the discretion of the ALJ.

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 work 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.

IT IS SO ORDERED.

DATE: January 5, 2015

/s/

REBECCA FREIE

Administrative Law Judge

Office of Administrative Hearings