

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. 2015010005

ORDER FOLLOWING PREHEARING
CONFERENCE GRANTING MOTION
TO CONTINUE

On January 9, 2015, a telephonic prehearing conference (PHC) was held before Administrative Law Judge B. Andrea Miles, Office of Administrative Hearings. Attorney David Mishook represented the Oakland Unified School District. Student's mother represented Student. The PHC was recorded.

Based on discussion with the parties and Oakland's Motion to Continue, the following order is issued:

1. Motion for Continuance: On January 6, 2015, Oakland filed a Motion to Continue. Student had until, the close of business on January 9, 2015 to respond to Oakland's motion. At the time of the PHC, Student had not responded to Oakland's motion.

At the beginning of the PHC, the parties made a joint motion for continuance of the PHC and the due process hearing and requested a date for mediation be set. Mother had previously cancelled the mediation because she was unavailable on the mediation's scheduled date. Both parties expressed an interest in attempting to resolve this matter at mediation, prior to the scheduled hearing. Additionally, Mother indicated that she was not available on the currently scheduled due process hearing dates because her children were scheduled to undergo some medical procedures during that time. This was the first requested continuance in this matter.

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 have established good cause to continue the hearing and the motion is granted. All dates are vacated. This matter will be set as follows:

Telephonic PHC:

Date: April 3, 2015

Time: 10:00 AM

Due Process Hearing:

Date: April 14 and 15, 2015

The hearing shall continue day to day, Monday through Thursday, as needed at the discretion of the ALJ.

Time: 9:30 AM on April 14, 2015 and 9:00 AM each day thereafter.

Place: Oakland OAH Office

1515 Clay Street, Suite 206

Oakland, California 94612

2. Scheduling of Mediation: The parties requested that a mediation be set on January 22, 2015. Parties request was granted and the new mediation date will be set as follows:

Date: January 22, 2015

Time: 9:30 AM

Place: Oakland OAH Office

1515 Clay Street, Suite 206

Oakland, California 94612

3. 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.

4. Other Matters: All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the PHC on April 3, 2015. Mother is advised to refer to the prior Scheduling Order for detailed information on the requirements for submitting a PHC Statement.

5. Settlement: Dates for hearing will not be cancelled until a letter of withdrawal, or a request for dismissal and the 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.

IT IS SO ORDERED.

Dated: January 9, 2015

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings