

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CHULA VISTA ELEMENTARY SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2015010881

ORDER FOLLOWING PRE-HEARING
CONFERENCE AND CONTINUING
PHC AND HEARING

On February 13, 2015, a prehearing conference was commenced telephonically before Administrative Law Judge Robert G. Martin, Office of Administrative Hearings. Sarah Sutherland, Esq. appeared on behalf of Bakersfield City. Student's Mother (Parent) appeared on behalf of Student. The PHC was recorded. Each party filed a prehearing conference statement.

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

1. Student's Request for Continuance. At the close of business on February 11, 2015, Student filed a request for a continuance of the hearing in this matter on grounds that Parent would be unavailable from February 16, 2015 through March 8, 2015, due to previously-arranged and purchased business and education travel to Austin, Texas from February 6, 2015 through February 27, 2015, and to a conference in San Diego, California from March 4, 2015 through March 8, 2015. At the commencement of the PHC, Parent explained on the record, in detail, the bases for the request for continuance, District agreed to the request for continuance, and both parties confirmed availability for hearing dates of April 7 through 9, 2015, and a PHC on March 20, 2015 at 1:00 p.m.

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).) Here, good cause was shown for a short initial continuance of the hearing date, to a new hearing date that is 42 days after the February 24, 2015 hearing date initially set in this matter.

Continued PHC Date: The continued telephonic PHC is to take place on March 20, 2015 at 1:00 p.m.

Continued Hearing Date: The continued hearing is to take place at Chula Vista ESD, 84 East J. Street, Chula Vista, CA 91910, commencing on Tuesday April 7, 2015 at 9:30 a.m., and continuing on April 8 and 9, 2015, at 9:00 a.m., and continuing thereafter day to day, Monday through Thursday, 9:00 a.m. to 4:30 p.m., as needed at the discretion of the Administrative Law Judge.

The District shall provide a facility for the hearing that fully complies with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. § 794 .), the Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and all laws governing accessibility of government facilities to persons with disabilities.

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. Student's Motion to Consolidate. On February 11, 2015, Student filed a motion to consolidate this matter with a due process hearing request filed by Student against District on or about February 11, 2015, and sought to address the motion to consolidate at the PHC. OAH generally provides parties three business days to respond to a motion.¹ District has stated its intent to file an opposition to Student's motion for consolidation on the third business day, February 17, 2015. OAH will address Student's motion to consolidate in due course after February 17, 2015.

3. Student's Request to Change Hearing Location. At the PHC, Student moved orally for an order changing the hearing location from District's offices to a neutral location such as OAH's San Diego office. Student and District agreed to meet and confer to see whether the parties could reach agreement regarding a stipulation to change the hearing location. The parties may file a joint stipulation to a change of location, or, if no agreement is reached, Student may file a motion to change the hearing location.

4. Amended PHC Statements. Either party may file an amended PHC statement at least three business days prior to the continued March 20, 2015 PHC in this matter. Each party will include in its exhibit list current resumes of the party's expert witnesses, and current resumes of any of the party's percipient witness whose education and employment are expected to be subjects of direct examination.

IT IS SO ORDERED.

DATE: February 13, 2015

/s/

ROBERT MARTIN
Administrative Law Judge
Office of Administrative Hearings

¹ www.dgs.ca.gov/oah/SpecialEducation.aspx, "Frequently Asked Questions"