

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

FAIRFIELD-SUISUN UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014110073

ORDER FOLLOWING PREHEARING
CONFERENCE GRANTING MOTION
TO CONTINUE

On March 6, 2015, a telephonic prehearing conference (PHC) was held before Administrative Law Judge B. Andrea Miles, Office of Administrative Hearings. Attorney Emily Sugrue represented the Fairfield-Suisun Unified School District. Student's parent represented Student. The PHC was recorded.

Based on discussion with the parties and the Student's request for continuance of the due process hearing, the following order is issued:

1. Motion for Continuance of Due Process Hearing: This matter is currently set for hearing on March 17–19, 2015, and continuing day to day as needed at the discretion of the Administrative Law Judge. On March 2, 2015, Student filed a request to continue the due process hearing, however, Student failed to provide proof of service. At the beginning of the PHC, Student's request to continue the hearing was addressed. Fairfield-Suisun's counsel indicated that she was aware of Student's request for continuance because Student had served the request for continuance on Fairfield-Suisun's District Office and it had been forwarded to her.

Student requested to continue the hearing for two reasons. The first reason was that Student wanted the opportunity to participate in mediation of the case prior to hearing. OAH had not scheduled a mediation because Student's complaint only requested to set a due process hearing and not a mediation. The second reason was that Student had just been assessed by Northern California Assessment Center and the written assessment, which Student will seek to have admitted at hearing, will not be available for four weeks. Fairfield-Suisun indicated it was opposed to a continuance and it was not willing to participate in mediation with Student.

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).)

Student has established good cause to continue the prehearing conference and the due process hearing. All dates are vacated. This matter will be set as follows:

Telephonic PHC:

Date: April 3, 2015

Time: 1:00 PM

Due Process Hearing:

Date: April 14 -16, 2015 and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

Time: 9:30 AM to 5:00 PM on April 14, 2015 and 9:00 AM to 5:00 PM each day thereafter.

Place: Fairfield-Suisun Unified School District
2490 Hilborn Road
Fairfield, California 94534

2. 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. Parents are advised to refer to the prior Scheduling Order for detailed information on the requirements for submitting a PHC Statement. Additionally, Parents are advised that they must serve District's counsel with copies of all documents which Parents files with OAH and file a proof of service stating that they have done so.

3. 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: March 6, 2015

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings