

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

RINCON VALLEY UNION SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014110788

ORDER FOLLOWING PREHEARING
CONFERENCE AND CONTINUING
PREHEARING CONFERENCE ONLY

On March 9, 2015, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Monica D. Batanero, Attorney at Law, appeared on behalf of Rincon Valley Union School District (Rincon). There was no appearance on behalf of Student.¹ The PHC was recorded.

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

1. Motion to Continue Hearing Dates. The hearing is currently scheduled to start on March 24, 2015. Rincon requested that the hearing be continued as Rincon's district offices are closed during the week of March 23, 2015, due to Spring break. Further, Rincon has provided Parent with a written settlement offer. On Friday, March 6, 2015, Parent indicated in an email message to Rincon that she intended to accept Rincon's settlement offer and that she would send the signed settlement agreement to Student's school on Monday March 9, 2015. Rincon had not received the signed settlement agreement as of the time of the PHC. This is a second request for continuance.

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

¹ The ALJ attempted to reach Parent at the number on file at 1:00 p.m. and again at 1:15 p.m. The calls went to a messaging system which announced that no messages could be left as the system was full. The ALJ also attempted to reach Parent at an alternate number provided by Rincon. Two messages were left on the alternate number, informing Parent that the PHC was being convened at 1:15 and to contact OAH. As of the time of this Order, OAH has not heard from Parent.

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 ALJ deferred ruling on Rincon's request for a continuance of the hearing as Parent did not have notice of Rincon's request. At Rincon's request, the ALJ continued the PHC to Friday, March 13, 2015, at 1:30 p.m. The hearing dates remain as previously set. The hearing will be held at Rincon's district offices, which are located at 1000 Yulupa Avenue, Santa Rosa, California. Rincon 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.

If Rincon wishes to continue the hearing, it will need to submit a joint written request for hearing signed by Parent or file a motion for a continuance with proof of service on Parent.²

2. Other Matters. All other matters relevant to preparing for hearing, including clarification of the issues and identification of witnesses and exhibits, will be addressed at the PHC on March 13, 2015. OAH requires a party to file a PHC statement at least three business days prior to the PHC. Student has not filed a PHC statement. **If this matter does not settle, and if the parties do not submit a joint request for a continuance, Student needs to file her PHC statement no later than 12:00 p.m., on March 12, 2015, and be available for the telephonic PHC on March 13, 2015, at 1:00 p.m.**

² At the PHC, the ALJ informed Rincon that it could renew its request for continuance verbally at the continued PHC. However, upon further reflection the ALJ has decided that a written request for continuance would be more appropriate.

3. Settlement. The parties are encouraged to continue working together to reach an agreement before the continued PHC date. 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 vacated unless OAH receives a letter of withdrawal or request for dismissal from Rincon with the signature page of the signed agreement, or unless otherwise ordered.

IT IS SO ORDERED.

DATE: March 9, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings