

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PAJARO VALLEY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015050333

ORDER FOLLOWING PREHEARING
CONFERENCE

On June 26, 2015, a telephonic prehearing conference was held before Administrative Law Judge Marian H. Tully, Office of Administrative Hearings. Attorney Jeffrey Randolph appeared on behalf of Student. Attorney Laurie E. Reynolds appeared on behalf of Pajaro Valley Unified School District (District). The PHC was recorded.

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

1. Motions. On June 19, 2015, District filed a request for due process, designated OAH Case number 2015060991 (District's Case), and a request to consolidate District's case with OAH Case No. 2015050333 (Student's Case). On June 25, 2015, at 4:30 p.m., District filed a motion to continue Student's Case. Mr. Randolph has not filed a notice of representation in District's Case. Mr. Randolph informed the ALJ that he represents Student in District's Case, Student opposes both motions and Mr. Randolph intended to file a notice of representation and written opposition to both motions.

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).)

OAH has reviewed the request for continuance and the request for time to file opposition to the request. Good cause is shown to continue this prehearing conference to July 3, 2015, at 1:00 p.m. Student's attorney shall file notice of representation in District's Case by 5:00 p.m., June 26, 2015. Student shall file any written opposition to the motion to continue Student's Case and/or any written opposition to the motion to consolidate District's Case with Student's Case by 5:00 p.m. June 26, 2015.

2. Hearing Dates, Times and Location. There is no change to the current dates set for the due process hearing. The due process hearing is currently set July 9, 2015, at 9:30 a.m., July 13, 2015, at 1:30 p.m., July 14, 2015, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

The hearing shall take place at District offices located at 294 Green Valley Road, Watsonville, California 95076. The hearing room shall comply 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.

3. Settlement. The parties are encouraged to continue working 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.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035. THE PARTIES SHOULD ALSO LEAVE CONTACT INFORMATION SUCH AS CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. THE PARTIES SHOULD SIMULTANEOUSLY FAX THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT THE FAXINATION LINE at 916-376-6319.

Dates for hearing will not be cancelled until the letter of withdrawal or 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. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement as noted above, the parties shall submit a request for a status conference and provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

IT IS SO ORDERED.

DATE: June 25, 2015

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings