

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SOQUEL ELEMENTARY SCHOOL
DISTRICT AND SANTA CRUZ COUNTY
OFFICE OF EDUCATION.

OAH Case No. 2015060923

ORDER FOLLOWING PREHEARING
CONFERENCE, GRANTING
REQUEST FOR CONTINUANCE AND
SETTING PREHEARING
CONFERENCE AND HEARING
DATES

This matter is currently set for hearing beginning on August 4, 2015. On July 24, 2015, a telephonic prehearing conference was held before Presiding Administrative Law Judge Margaret M. Broussard, Office of Administrative Hearings. Parents appeared on behalf of Student. Eliza McArthur, Attorney at Law, appeared on behalf of Soquel Union Elementary School District. Monica Batanero, Attorney at Law, appeared on behalf of Santa Cruz County Office of Education. The PHC was recorded.

Based on discussion with the parties, the ALJ issues the following orders:

1. Motion for Continuance: At the prehearing conference, Soquel and Santa Cruz made a motion to continue this matter until September 21, 2015, due to the unavailability of an essential witness from July 28, 2015 through August 18, 2015 and the unavailability of counsel due to a medical procedure from August 18, 2015 through September 1, 2015. Student opposed the continuance because the matter concerns his placement for the fall of 2015 and he wants a decision as soon as possible. This is the first request for a 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).)

Based on good cause shown, the request for continuance is granted. All dates are vacated and the matter is scheduled as follows:

Prehearing Conference: August 31, 2015, at 3:00 p.m.

Hearing: September 8, 2015, at 1:30 p.m., and September 9-10, 2015, at 9:00 a.m., and continuing, day to day, Monday through Thursday as needed in the discretion of the ALJ.

2. 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.

3. 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 next PHC.

4. Settlement: Dates for hearing will not be cancelled until a letter of withdrawal, or a request for dismissal with the signature page of the signed agreement has been received by OAH. In the event a settlement agreement is executed subject to board approval, the parties may request to continue the hearing and set a telephonic status conference call following the date anticipated for board approval. The parties should otherwise plan to attend the scheduled PHC and the hearing unless different arrangements have been agreed upon by the assigned ALJ or ordered by OAH.

IT IS SO ORDERED.

DATE: July 24, 2015

/s/

MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings