

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEW HAVEN UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015070576

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

On August 7, 2015, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Susan Foley, Attorney at Law, appeared on behalf of Parent and Student. Parent also participated. Alejandra Leon, Attorney at Law, appeared on behalf of New Haven Unified School District. The PHC was recorded.

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

1. Student's Motion to Continue. This matter was set to begin hearing on August 19, 2015. In his prehearing conference statement filed August 6, 2015, Student requested a continuance as his counsel is involved in an ongoing due process hearing which was specifically scheduled for a final hearing day of hearing on August 19, 2015.¹ New Haven did not oppose a continuance. This is the first request to continue the dates 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).)

¹ OAH received Student's prehearing conference after business hours on August 5, 2015. It is deemed filed the next business day.

Having considered all relevant facts and circumstances, Student established good cause for a continuance. All dates were vacated and the matter was continued to the following dates:

Mediation:	August 26, 2015, at 10:00 a.m. ²
Prehearing Conference:	October 23, 2015, at 1:00 p.m.
Due Process Hearing:	November 3, 2015, at 9:30 a.m., November 4-5, 2015, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

The mediation and hearing shall take place at New Haven's district offices located at 34200 Alvarado-Niles Road, Union City, California, 94587. New Haven 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.

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. 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. 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 October 23, 2015. If the parties seek to amend their witness or exhibit lists, they shall file an amended PHC statement not later than three business days prior to the PHC.

² Student's request for a delayed start time due to respite needs was granted.

4. 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. Dates for the PHC and hearing will not be cancelled unless OAH receives a letter of withdrawal or request for dismissal from Student, or unless otherwise ordered.

IT IS SO ORDERED.

DATE: August 10, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings