

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

WEST CONTRA COSTA UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2015060692

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

On September 25, 2015, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Parent appeared on behalf of Student. Spanish interpreter Yazmin Lope interpreted for Parent. Shawn Olson Brown, Attorney at Law, appeared on behalf of West Contra Costa Unified School District. The PHC was recorded.

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

1. Request for Continuance. This matter was set to begin hearing on October 6, 2015. During the PHC, Parent represented that he had not received notice of today's PHC or the hearing dates and he requested a continuance. West Contra Costa did not oppose the 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 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).)

Parent established good cause for a further continuance in this matter. All dates were vacated and the matter was continued to the following dates:

Prehearing Conference:

October 16, 2015, at 1:00 p.m.

Due Process Hearing:

October 27, 2015, at 9:30 a.m., October 28-29, 2015, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

The hearing shall take place at West Contra Costa's District Office located at 2465 Dolan Way, San Pablo, California, 94806. West Contra Costa is to 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 et seq.), the Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and all laws governing accessibility of government facilities to persons with disabilities. West Contra Costa has not yet certified that it would provide a facility for this case that complied with the law, and is ordered to inform OAH within two days of the date of this order if it is able to certify that it will provide a facility that complies with the law.

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. Father's Right to Proceed with Matter. By October 13, 2015, Student is ordered to file with OAH proof that Parent has been appointed his conservator, or a written notice or letter signed by Student authorizing Parent to proceed on his behalf with this case, or otherwise indicating he has assigned Parent his educational rights and provide a copy to Ms. Olson Brown. Parent indicated that he has an attorney and believes this attorney will be representing Student. Parent was advised that his attorney must file a Notice of Representation with OAH in order to receive important court orders in this matter.

4. 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 16, 2015. Student is required to file a PHC statement at least three business days prior to the PHC and provide a copy to Ms. Olson Brown. As indicated in the June 19, 2015 Scheduling Order, the PHC Statement shall include the following:

- a. Each party's estimate of the time necessary to complete the Due Process Hearing;
- b. A concise statement of the issues that remain to be decided at the Due Process Hearing and the proposed resolution of such issues, based upon those issues raised in the due process hearing request;

- c. The name of each witness the party may call at the Due Process Hearing, a brief summary of the subject of the expected testimony of the witness, and a description of the issue to which the testimony of the witness relates;
- d. The name and address of each expert witness the party intends to call at the Due Process Hearing, a brief summary of the opinion that the expert is expected to give, and a description of the issue to which the testimony of the expert relates;
- e. A list of documentary evidence that the party intends to present, and a description of any physical or demonstrative evidence; and
- f. The need for an interpreter or special accommodation at the due process hearing

5. 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: September 25, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings