

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FORTUNA UNION HSD, HUMBOLDT
COUNTY OFFICE OF EDUCATION, AND
MATTOLE UNIFIED SD.

OAH Case No. 2015090936

ORDER FOLLOWING PREHEARING
CONFERENCE GRANTING REQUEST
FOR CONTINUANCE AND SETTING
DATES

On November 2, 2015, a telephonic prehearing conference was held before Administrative Law Judge Jamie Errecart, Office of Administrative Hearings. Daniel R. Shaw, Attorney at Law, appeared on behalf of Parent and Student. Jennifer E. Nix, Attorney at Law, appeared on behalf of Fortuna Union High School District, Humboldt County Office of Education, and Mattole Unified School District. The PHC was recorded.

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

1. Request to Continue. This matter was set to begin hearing on November 10, 2015. At the start of the PHC, Fortuna, Mattole, and Humboldt requested a continuance of the matter to mutually agreeable dates because District personnel were not available on the days currently scheduled for hearing. Student did not oppose the request to continue. 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).)

Fortuna, Mattole, and Humboldt established good cause for a continuance in this matter. All dates were vacated and the matter was continued to the following dates:

Prehearing Conference: December 28, 2015, at 10:00 a.m.

Due Process Hearing: January 5, 2016, at 9:00 a.m., January 6-7, 2015,¹ 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 Humboldt County Office of Education located at 901 Myrtle Avenue, Eureka, CA 95501. Fortuna, Mattole, and Humboldt shall provide a facility for the hearing that fully complies with the Americans with Disabilities Act of 1990 (42 U.S.C.A. § 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.

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 December 28, 2015. The parties may file amended PHC statements at least three business days prior to the PHC.

4. Settlement. The parties are encouraged to work 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: November 3, 2015

/s/

JAMIE ERRECART
Administrative Law Judge
Office of Administrative Hearings

¹ The parties will discuss the hearing dates at the PHC on December 28, 2015, and/or at the hearing with the Administrative Law Judge that presides over the matter.

