

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

VACAVILLE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015090255

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

On December 4, 2015, a telephonic prehearing conference was held before Administrative Law Judge Dena Coggins, Office of Administrative Hearings. Tania Whiteleather, Attorney at Law, appeared on behalf of Student. Emily Sugrue, Attorney at Law, appeared on behalf of Vacaville Unified School District. Ms. Whiteleather's assistant, Patti Schiffner, was present during the PHC. The PHC was recorded.

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

1. Request for Continuance. On December 4, 2015, Student filed a request for continuance of the PHC and hearing dates because Student's attorney will be in a hearing, which has already commenced, on the dates currently scheduled for hearing in this matter. Vacaville did not oppose the motion to continue.

A due process hearing must be conducted and a decision rendered within 45 days of receiving notice of the due process complaint 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 proximity to 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).)

Student 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: January 25, 2016, at 10:00 a.m.

Due Process Hearing: February 2, 2016, at 9:30 a.m.; February 3 and February 4, 2016, 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 Vacaville's District Office located at 401 Nut Tree Road, Vacaville, CA 95688. Vacaville 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. Vacaville has not yet certified that it will provide a facility for this case that complies with the law, and is ordered to inform OAH before the PHC it is able to certify that it will provide a facility that complies with the law.

2. 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.

IT IS SO ORDERED.

DATE: December 4, 2015

/s/

DENA COGGINS
Administrative Law Judge
Office of Administrative Hearings