BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TAMALPAIS UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2015010202 ORDER FOLLOWING PREHEARING CONFERENCE AND GRANTING MOTION TO CONTINUE

On April 6, 2015, a telephonic prehearing conference was held before Administrative Law Judge B. Andrea Miles, Office of Administrative Hearings. Father represented Student. Attorney Jan Tomsky represented Tamalpais Union High School District. The PHC was recorded.

Based on discussion with the parties and Student's written request for continuance the following order is issued:

1. Motion for Continuance of Due Process Hearing: This matter is currently set for hearing on April 21 - 23, 2015. On April 3, 2015, Student filed a request to continue the due process hearing dates. Student's continuance request was addressed at the beginning of the PHC.[1] Student requested the continuance because he was in the process of attempting to retain counsel. Tamalpais opposed Student's request for continuance because it believed that Student had had enough time to secure counsel and that Student was only requesting the continuance because he was not fully prepared for the PHC and the hearing. One prior joint request for continuance was granted 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] Although, Tamalpais had until April 8, 2015 to respond to Student's request for continuance, Tamalpais's attorney agreed to address Student's request at the PHC.

Student has established good cause to continue the due process hearing. Therefore, both the due process hearing and the PHC are continued. In the event that Student is able to retain counsel, Student should advise counsel that OAH will not grant a further continuance on the basis that counsel is unavailable for the hearing. All dates are vacated. This matter will be set as follows:

Telephonic PHC:

Date: May 4, 2015

Time: 1:00 PM

Due Process Hearing:

Date: May 12 - 14, 2015, continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

Time: 9:30 AM on May 12, 2015 and 9:00 AM on each subsequent day of hearing.

2. 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 PHC on May 4, 2015.

3. Settlement: If the matter settles before hearing, dates for hearing will not be cancelled until a letter of withdrawal, or a request for dismissal and the signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ.

IT IS SO ORDERED.

Dated: April 7, 2015

/s/
B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings