

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

NEW HAVEN UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2014040285

ORDER FOLLOWING PREHEARING
CONFERENCE, DENYING REQUEST
TO CONTINUE HEARING, AND
GRANTING CONTINUANCE OF
PREHEARING CONFERENCE ONLY

On August 22, 2014, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Laurie E. Reynolds, Attorney at Law, appeared on behalf of New Haven Unified School District (New Haven). Susan Foley, Attorney at Law, appeared on behalf of Parents and Student. The PHC was recorded.

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

1. Student's Motion to Continue. This matter is scheduled for hearing beginning on September 9, 2014. At the start of the PHC, Student requested that all dates be continued so she may have additional time to attempt to receive information from a third party on a key issue which may resolve the matter. Ms. Reynolds had not received advance notice of this request and did not agree to a continuance without an opportunity to consult with her client. This is the third request for a 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).)

At the initial PHC on May 23, 2014, Student requested and was granted a continuance on the very same grounds and has already had three months in which to obtain relevant information. Student did not establish good cause to further continue the due process hearing

and her request to continue the hearing is denied. However, Student did establish good cause to continue the PHC only, and New Haven did not oppose this continuance. Student's request for continuance of the PHC only is granted. The PHC will be held on Friday, August 29, 2014, at 10:00 a.m. All other dates for hearing remain as previously set.

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 issue and identification of witnesses and exhibits, will be addressed at the prehearing conference on August 29, 2014.

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 prehearing conference and hearing will not be cancelled unless a letter of withdrawal or a request for dismissal with the signature page of a signed agreement has been received by OAH.

IT IS SO ORDERED.

DATE: August 22, 2014

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings