

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SAN RAFAEL CITY SCHOOLS.

OAH Case No. 2014070778

ORDER FOLLOWING PREHEARING
CONFERENCE

On October 27, 2014, a telephonic prehearing conference was held before Administrative Law Judge Joy Redmon, Office of Administrative Hearings. Attorney Mandy Leigh appeared on Student's behalf. Attorney Jan Tomsy appeared on San Rafael's behalf. The PHC was recorded.

Motion to Continue

At the outset of the PCH, the parties represented that they had reached a final settlement agreement; however, it has not yet been reduced to writing. Ms. Leigh made a motion to continue the PHC and Ms. Tomsy did not oppose the request.

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 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 the proximity of 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).)

Good cause was established to briefly continue the PHC only to give the parties an opportunity to draft and execute a written settlement agreement. The parties essentially have an oral agreement in principle, which does not constitute cause to continue the hearing

scheduled in this case. The PHC is continued to Friday, October 31, 2014, at 10:00 a.m. The parties shall notify OAH prior to the PHC if they have fully executed the agreement and submit a withdrawal or request to dismiss the matter in its entirety. Since the hearing is scheduled to begin on November 4, 2014, in the absence of such notification, the PHC will proceed.

ORDER

1. Motion to Continue the PCH only is granted.
2. The PCH is now scheduled for Friday, October 31, 2014, at 10:00 a.m., unless the parties submit a copy of the signature page of the settlement agreement prior to that time.
3. The due process hearing dates shall remain on calendar.

IT IS SO ORDERED.

DATE: October 27, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings