

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

TWIN RIVERS UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011020609

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

The hearing in this matter is set currently for May 2 through 5, 2011. On April 25, 2011, a call was initiated by Administrative Law Judge Adeniyi A. Ayoade (ALJ), Office of Administrative Hearings (OAH) in order to conduct a telephonic prehearing conference (PHC). Heather M. Edwards, Attorney at Law, appeared for the Twin Rivers Unified School District (District). Parent, together with Steven Berniker, Attorney at law, appeared on behalf of Student. The PHC was not held, but the telephone call was recorded.

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

1. Motion to Continue: During the call, Parent indicated that she had just retained Mr. Berniker on April 22, 2011, and that Mr. Berniker has not had the chance to review the file, and prepare for the PHC and the due process hearing to begin on May 2, 2011. Thus, on behalf of Student, Mr. Berniker requested a continuance of the PHC and the hearing dates. District opposed 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. (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).) Even though Student was earlier granted a continuance on March, 4, 2011, in order to obtain an attorney, Parent demonstrated that since that order, she had been trying to obtain legal representation and was only able to retain an attorney on April 22, 2011. Therefore, Good cause for continuance of the hearing is established and the request to continue the PHC and the due process hearing dates is:

Granted. This matter will be set for the following dates and times:

Prehearing Conference: May 11, 2011, at 1:30 p.m.

Due Process Hearing: May 23 – 26, 2011, at 9:30 a.m.¹

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 issues and identification of witnesses and exhibits, will be addressed at the PHC on May 11, 2011. All other orders contained in the OAH Scheduling Order dated February 17, 2011, remain in effect.

4. Settlement: 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 25, 2011

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings

¹ Due Process Hearing shall begin at 9:30 a.m. and will go until 5:00 p.m. on the first day. On subsequent days, the hearing shall begin at 9:00 a.m. There will be a 15-minute break in the morning, another in the afternoon and one hour for lunch for each full day of hearing. OAH may allow the hearing to go beyond 5:00 p.m. on any day in order to promote the efficient administration of the hearing, or to provide for the convenience of the witnesses. The parties shall make every reasonable effort to call witnesses to testify on only one occasion.