

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

OAH CASE NO. 2012120052

v.

LOOMIS ELEMENTARY SCHOOL
DISTRICT,

LOOMIS ELEMENTARY SCHOOL
DISTRICT,

OAH CASE NO. 2012110454

v.

PARENTS ON BEHALF OF STUDENT.

ORDER GRANTING REQUEST FOR
CONTINUANCE OF PREHEARING
CONFERENCE ONLY AND ADDING
HEARING DATES

Hearing in this matter is set for February 12 and 13, 2013. On February 6, 2013, a telephonic prehearing conference (PHC) in this matter was convened before Administrative Law Judge Deidre L. Johnson (ALJ), Office of Administrative Hearings (OAH). Attorney Amber Lance appeared for Student and Parents (Student). Attorney Colleen R. Villarreal appeared on behalf of the Loomis Unified School District (District).¹ The PHC was recorded. Based on discussion with the parties, the following order is issued:

1. Motion for Continuance of PHC: During the PHC, the parties stated they are negotiating a written settlement agreement and requested to briefly continue the PHC.

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 Attorney Marcella L. Gutierrez also appeared telephonically with Ms. Villarreal.

In the absence of a signed settlement agreement, the hearing may generally not be dropped from the calendar but the PHC may be continued to support the settlement process. Here, the parties established good cause to continue the PHC only.

- The motion is granted. The telephonic PHC will be set for the following date and time:

PHC February 11, 2013, at 10:00 a.m.

2. Added Hearing Dates: During the PHC, the parties agreed that, if the case does not settle, they requested five days in total to complete the evidentiary hearing. Based on the schedules of the parties, the hearing shall take place as follows:

Due Process Hearing: February 12, 2013, at 9:30 AM,
February 13, 2013, at 9:00 AM,
February 19, 2013, at 1:30 PM, and
February 20 and 21, 2013, at 9:00 AM.

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. The hearing dates remain as scheduled.

4. Settlement: Dates for the PHC and the hearing will not be cancelled until a letter of withdrawal, or a request for dismissal with the signature page of the signed agreement has been received by OAH. If the settlement agreement has been executed but is subject to approval of the school board, the parties may file a motion for OAH to vacate the hearing dates and set a telephonic status conference for a date following board approval.

IT IS SO ORDERED.

Dated: February 7, 2013

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings