

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRANKLIN-MCKINLEY SCHOOL
DISTRICT.

OAH CASE NO. 2014010851

ORDER FOLLOWING PREHEARING
CONFERENCE AND GRANTING
REQUEST FOR CONTINUANCE OF
PREHEARING CONFERENCE

On May 12, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Adeniyi A. Ayoade, Office of Administrative Hearings (OAH). F. Richard Ruderman, Attorney at Law, appeared on behalf of Student (Student). Deborah U. Ettinger, Attorney at Law, appeared on behalf of the Franklin-Mckinley School District (Franklin-Mckinley). The PHC was recorded. Based on discussion with the parties, the ALJ issues the following order:

During the prehearing conference, the parties represented that they have reached a settlement resolution of the case, and that a written settlement agreement was being circulated for signatures. The parties argued that proceeding with the prehearing conference was unnecessary as the case was settling. Thus, the parties jointly requested that the prehearing conference be continued to May 16, 2014, in order to afford the parties additional time to finalize their agreement.

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).)

OAH has reviewed the request to continue the PHC for good cause and considered all relevant facts and circumstances. The request is:

Granted. The prehearing conference is continued and reset as follows:

Prehearing Conference: May 16, 2014 at 10:00 AM

The due process hearing dates shall remain on calendar as currently set.

IT IS SO ORDERED.

DATE: May 12, 2014

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings