

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FOLSOM CORDOVA UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014040241

ORDER FOLLOWING PREHEARING
CONFERENCE GRANTING MOTION
FOR CONTINUANCE AND SETTING
NEW DATES

This matter is set for hearing beginning on May 29, 2014. On May 23, 2014, a telephonic prehearing conference in this matter was held before Administrative Law Judge Deidre L. Johnson, Office of Administrative Hearings. Attorney Daniel Shaw appeared on behalf of Student and Parent (Student). Attorneys Rebecca Feil and Anne Sherlock appeared on behalf of the Folsom Cordova Unified School District (District). The conference was recorded.

1. Motion for Continuance: At the outset of the telephonic conference, Student made an oral motion to continue the hearing in this matter on the grounds that the parties were close to settling the matter, and Student's counsel had just been assigned this case within the law firm of Ruderman and Knox. District initially opposed the motion. The conference was continued for an hour to permit the parties to confer with their clients. After discussion on the record, District withdrew its objection.

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).)

No previous request for a continuance has been made or granted in this matter. The parties established cause for a continuance. A continuance is therefore granted and the previously set hearing dates are vacated. Based on the available dates for OAH and the parties, this matter is set as follows:

Prehearing Conference: August 8, 2014, at 10:00 a.m.

Hearing: August 19, 2014, at 9:30 p.m.,
August 20, and 21, 2014, at 9:00 a.m., and
continuing thereafter day to day, Monday through
Thursday as needed, in the discretion of the ALJ.

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 purpose 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 next prehearing conference.

4. Settlement: The above dates will not be cancelled until a letter of withdrawal, or a request for dismissal with the signature page of a signed settlement agreement has been received by OAH. In the event a settlement agreement is executed subject to board approval, the parties may request to continue the matter and set a telephonic status conference call following the date anticipated for board approval. The parties should otherwise plan to attend the scheduled prehearing conference and the hearing unless different arrangements have been agreed upon by the assigned ALJ, or ordered by OAH.

DATE: May 23, 2014

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings