

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

MONTEREY PENINSULA UNIFIED  
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014060137

ORDER FOLLOWING PREHEARING  
CONFERENCE AND CONTINUING  
PREHEARING CONFERENCE AND  
DUE PROCESS HEARING

On June 16, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Charles Marson, Office of Administrative Hearings (OAH). Ernest L. Bell, Attorney at Law, appeared on behalf of the Monterey Peninsula Unified School District (Monterey). Student's Father appeared on behalf of Student. The PHC was recorded.

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

1. Motion for Continuance. At the outset of the PHC, Father moved for a continuance of the PHC and hearing on the ground that he was actively seeking an attorney but had not completed that process.

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).)

Since this matter has been pending for only three weeks, and Father is diligently seeking counsel, good cause for continuance has been shown. All dates are vacated. The matter will be set as follows:

Prehearing Conference: September 8, 2014 at 1:00 PM<sup>1</sup>  
Due Process Hearing: September 16, 2014, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

This continuance will provide ample time for Father to obtain an attorney if he is able to do so. No further continuance will be granted on that ground.

2. All Other Matters Deferred to Continued PHC. All other matters are deferred to the continued PHC on September 8, 2014.

IT IS SO ORDERED.

Dated: June 17, 2014

/s/

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CHARLES MARSON  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> The starting time of 10:00 AM on September 8, 2014, discussed at the PHC, conflicts with a scheduled OAH staff meeting and has therefore been changed to 1 PM.