

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014060836

ORDER FOLLOWING PREHEARING
CONFERENCE, CONTINUING
PREHEARING CONFERENCE

On October 31, 2014, a telephonic prehearing conference (PHC) was held before Presiding Administrative Law Judge Bob N. Varma, Office of Administrative Hearings. Lenore A. Silverman, Attorney at Law, appeared on behalf of the Oakland Unified School District (Oakland). Deborah Bloom, advocate for Student, did not appear. The ALJ attempted to convene the telephonic PHC at 10:00 a.m., the time designated for this PHC, but was only able to reach Ms. Bloom's voicemail. A message was left that that ALJ would attempt to convene the PHC again shortly. At approximately 10:17 a.m., the ALJ again attempted to convene the telephonic PHC, but was again only able to reach Ms. Bloom's voicemail.¹ The ALJ left a message that the PHC would proceed without Ms. Bloom. The PHC was recorded.

Based on discussion of with Oakland, the ALJ issues the following order:

1. Motion for Continuance: The hearing in this matter is set to commence on November 12, 2014. At the start of the PHC, Oakland informed OAH that the parties had reached a final settlement. However, the parties required further time to execute the necessary settlement agreement documents. Accordingly, Oakland moved to continue the PHC in this matter. It is assumed that, based upon the failure to appear by Ms. Bloom and the failure to file a PHC statement, Student does not object to the continuance of the PHC. However, if Student does object, Student may file a motion for reconsideration.

¹ Parties are required to file PHC statements at least three business days before the PHC. Neither party filed a PHC statement in this matter. Oakland was reminded of its obligation during the PHC. Student is hereby reminded of the same obligation. Furthermore, if Ms. Bloom fails to appear in the future at duly noticed proceedings OAH may issue an Order to Show Cause as to why Ms. Bloom should not be sanctioned or ordered to pay costs.

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).)

Oakland established good cause to continue the PHC. The request was granted. This matter will be set as follows:

Prehearing Conference: November 7, 2014, at 10:00 AM

Due Process Hearing: Remains as currently calendared

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 November 7, 2014. All other orders contained in the OAH Scheduling Order dated June 18, 2014, 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.

DATE: October 31, 2014

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings