

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

JEFFERSON ELEMENTARY SCHOOL
DISTRICT.

OAH Case No. 2014070567

ORDER FOLLOWING PREHEARING
CONFERENCE GRANTING
CONTINUANCE OF PREHEARING
CONFERENCE ONLY

On November 21, 2014, a telephonic prehearing conference was held before Administrative Law Judge B. Andrea Miles, Office of Administrative Hearings. Attorney Shawn Olson Brown represented the Jefferson Elementary School District. Attorney Richard Ruderman represented Student. The PHC was recorded.

Based on discussion with the parties, the following order is issued:

1. Motion for Continuance of Prehearing Conference: This matter is set for hearing on December 2 through December 4, 2011, and continuing day to day as needed at the discretion of the Administrative Law Judge. At the beginning of the PHC, the parties requested to continue the PHC on grounds that the parties were currently engaged in settlement discussions and the parties wanted the opportunity to make a good faith effort to resolve the case prior to 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).)

The parties have established good cause to continue the PHC. As such, all the PHC is continued. This matter will be set as follows:

Prehearing Conference: December 1, 2014, at 1:00 PM

Due Process Hearing: December 2, 2014 at 3:00 PM. December 3, 4 and 5, 2014 at 9:00 AM, and continuing day to day, as needed at the discretion of the Administrative Law Judge.

2. Scheduling of Due Process Hearing: The parties did not seek to continue the due process hearing Jefferson's attorney noted that she is scheduled to begin another due process hearing on December 8, 2014. Friday, December 5, 2014 was added as a hearing date in this matter to help ensure that this hearing is completed before her other hearing begins. However, it was made clear to the parties that amount of days allotted for the completion of the hearing in this case would not be limited by either party's scheduling conflicts and that the hearing would continue, day to day, Monday through Thursday at the discretion of the ALJ.

3. Start time for First Day of Due Process Hearing: Due to a conflict in the schedule of the ALJ, the first day of hearing (December 2, 2014) will not begin until 3:00 PM.

4. 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.

5. 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 December 1, 2014.

6. 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.

Dated: November 21, 2014

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings