

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

PACIFICA SCHOOL DISTRICT.

OAH Case No. 2014070772

ORDER FOLLOWING PREHEARING
CONFERENCE; GRANTING
REQUEST TO CONTINUE DATES;
AND SETTING PREHEARING
CONFERENCE AND HEARING
DATES

On January 12, 2015, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Adeniyi A. Ayoade, Office of Administrative Hearings. Susan E. Foley, Attorney at Law, appeared on behalf of Student. Kathryn E. Meola and Lance Alarcon, Attorneys at Law, appeared on behalf of Pacifica School District. The PHC was recorded. Based on discussion of the parties, the ALJ issues the following order:

1. Motion to Continue Prehearing Conference and Hearing Dates. At the beginning of the PHC, Student moved for a continuance. Pacifica originally opposed the request; however, as the parties presented oral argument, Pacifica withdrew its opposition. After having heard the parties and considered the matter, good cause was established and the matter is continued as set out below.

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 dates for good cause and considered all relevant facts and circumstances. The request to continue the dates is:

Granted. As discussed and agreed to by the parties during the January 12, 2015 prehearing conference, all dates are continued and reset as follows:

Prehearing Conference: **March 2, 2015, at 1:00 PM**

Due Process Hearing: **March 16-19, 2015.**¹ The hearing shall begin at 9:00 AM each day, except for March 16 when the hearing shall begin 1:30 PM. Thereafter, the hearing shall continue day to day, Monday through Thursday at the discretion of the ALJ until the hearing is concluded.

2. Timely Disclosure of Witnesses/Exhibits. Education Code section 56505, subdivision (e)(7), provides for disclosure of witnesses and exhibits “at least” five business days prior to the hearing. The parties shall comply with Education Code section 56505, subdivision (e)(7).

3. Other Matters: All other matters relevant to preparing for the hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the PHC on March 2, 2015. Unless modified by this order, all other orders contained in the OAH’s Scheduling Order dated July 21, 2014 shall 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. **IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY BEFORE THE HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035. THE PARTIES SHOULD ALSO LEAVE CONTACT INFORMATION SUCH AS CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. THE PARTIES SHOULD SIMULATANEOUSLY FAX THE**

¹ No additional continuance would be granted in this matter, would a showing of special circumstances and substantial good cause.

SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT THE FAXINATION LINE AT (916) 376-6319.

5. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: January 12, 2015

/s/

ADENIYI AYOADE

Administrative Law Judge

Office of Administrative Hearings