

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

PARADISE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014080043

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

On October 31, 2014, a telephonic prehearing conference was held before Administrative Law Judge Adeniyi A. Ayoade, Office of Administrative Hearings. Daniel R. Shaw, Attorney at Law, appeared on behalf of Student. Jessica T. Gasbarro, Attorney at Law, appeared on behalf of the Paradise Unified School District. The PHC was recorded. Based on discussion of the parties, the ALJ issued the following order:

1. Motion to Continue Prehearing Conference and Hearing Dates. On October 31, 2014, OAH received a joint written request from the parties, to continue the prehearing conference and the due process hearing dates in this matter. According to the request, the parties have reached an interim agreement requiring independent educational evaluations of Student. The parties explained that the independent evaluations could not be completed prior to the current hearing dates, and as such they are requesting a continuance of all dates in order to complete the evaluations prior to the hearing. In addition, the parties indicated that they would like to the opportunity to participate in mediation following the independent evaluations and prior to a hearing, and have requested that a mediation date be set for January 20, 2015.

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. Based on the parties' request, as discussed and modified during the October 31, 2014 prehearing conference all dates are continued. The dates are reset as follows:

Mediation	January 20, 2015, at 9:30 AM
Prehearing Conference:	February 13, 2015, at 1:00 PM
Due Process Hearing:	February 23-26, 2015, Beginning at 1:30 PM on February 23, 2015, and 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 are to 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 February 13, 2015. Unless modified by this order, all other orders contained in the OAH's Scheduling Order dated September 12, 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 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: October 31, 2014

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings