

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. 2016020428

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING DATES

On March 27, 2016, a telephonic prehearing conference was scheduled to be held before Administrative Law Judge B. Andrea Miles, Office of Administrative Hearings at 10:00 a.m.. Sauda Johnson, Attorney at Law, appeared on behalf of Student. David Mishook and Lenore Silverman, Attorney at Law, appeared on behalf of Oakland Unified School District. Prior to the start of the PHC, the parties indicated they had filed a joint request for continuance on March 24, 2016. The ALJ had not been provided that request for continuance prior to the start time prehearing conference and the undersigned was unable to locate it. The matter was continued to 11:00 a.m. so Ms. Johnson could refile the joint request for continuance. Prior to receiving that joint request for continuance, the parties' prior request for continuance was located.

1. Motion for Continuance of PHC and Due Process Hearing: This matter is currently set to begin hearing on March 30, 2016. This is the first request for continuance in this matter.

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 established good cause to continue the PHC and the due process hearing. Therefore, both the due process hearing and the PHC are continued. A different time for the PHC is being set due to the operational needs of OAH. This matter will be set as follows:

Telephonic PHC:

Date: May 9, 2016

Time: 3:00 p.m.

Due Process Hearing:

Date: May 17, 18, and 19, 2016, and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

Time: 9:30 a.m. on May 17, 2016 and 9:00 a.m. on May 18 and 19, 2016.

2. 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 May 9, 2016.

3. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY PRIOR TO 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 SIMULTANEOUSLY 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.

Dates for hearing will not be cancelled until the letter of withdrawal or 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. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

IT IS SO ORDERED.

DATE: March 28, 2016

DocuSigned by:

B. Andrea Miles

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B. ANDREA MILES

Administrative Law Judge

Office of Administrative Hearings