

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
  
PARENTS ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021050783

ORDER GRANTING REQUEST FOR CONTINUANCE AND  
SETTING DUE PROCESS HEARING

SEPTEMBER 3, 2021

On September 3, 2021, the parties filed with the Office of Administrative Hearings, referred to as OAH, a joint request to continue this matter, based upon a possible contingent settlement recently negotiated between the parties.

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. (Ed. Code, § 56505, subd. (f)(3); 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 or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

Here, the parties reached a tentative settlement at a recent mediation, contingent upon the parties finding a suitable out-of-district placement that would accept Student. The parties anticipate that it will take over a month to secure placement, and request a continuance of the due process hearing for approximately 60 days.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is granted. The recent change in settlement positions at mediation constitutes good cause as a significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing.

However, this case was filed on May 25, 2020, and in light of the age of this case, further continuances are not anticipated.

This matter will be set as follows:

Prehearing Conference will be held on November 8, 2021, at 3:00 pm.

Due Process Hearing will be held on November 16, 2021 through November 18, 2021. The hearing shall begin at 9:30 am on all days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or subpoena a witness. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with evidence of good cause why it was not possible to file the motion by that date.

IT IS SO ORDERED.

*Alexa Hohensee*

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings