

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LANCASTER SCHOOL DISTRICT.
OAH CASE NUMBER 2021060183

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING PREHEARING CONFERENCE AND DUE PROCESS
HEARING

SEPTEMBER 14, 2021

On September 14, 2021, the parties filed with the Office of Administrative Hearings, referred to as OAH, a joint request for a second continuance, based upon Student's recent hospitalization causing a delay in negotiating a settlement agreement.

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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The continuance request is granted.

The joint request is supported by the sworn declaration of Student's counsel that Student was recently hospitalized, which interfered with and delayed productive settlement negotiations. The parties jointly request a short continuance of 30 days to continue settlement negotiations which began at mediation in August. Student's recent hospitalization was a significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing, and constitutes good cause for the short continuance requested.

This matter will be set as follows:

Prehearing Conference will be held on October 18, 2021 at 1:00 pm.

Due Process Hearing will be held on October 26, 2021 through October 27, 2021. October 28, 2021, not available due to mandatory ALJ training. 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