

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021060272

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

SEPTEMBER 9, 2021

On September 8, 2020, the parties filed with the Office of Administrative Hearings, referred to as OAH, a joint request to continue this matter, based upon counsel's unavailability on the scheduled dates for hearing. This is the second continuance request in this case as OAH granted the first continuance request on July 8, 2021.

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. Counsel for Student is unavailable during the scheduled hearing dates because she will be in hearing with another case whose hearing starts on September 14, 2021, and is expected to last at least two weeks. Although that case is a more-recently-filed case, it takes priority over this case because it will be in hearing on the day this case's hearing is to commence. The other matters listed in the declaration setting out the case conflicts are newer filings which do not take priority over this matter. Accordingly, the request is:

Granted. All dates are vacated. The continuance request is granted with a modification. This matter will be set as follows:

Prehearing Conference will be held on October 8, 2021, at 1:00 PM.

Due Process Hearing will be held on October 19 through 21, 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.

*Chris Butchko*

Chris Butchko

Administrative Law Judge

Office of Administrative Hearings