

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

PLEASANTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021060760

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

SEPTEMBER 15, 2021

On September 9, 2021, the parties filed with the Office of Administrative Hearings, referred to as OAH, a joint request to continue this matter, based upon the unavailability of Parent.

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 sworn declaration of Parent establishes good cause for a continuance, as she will be unavailable on the dates scheduled for hearing, October 12 through 14, 2021, due to a pre-existing work commitment that she cannot change. This is an unforeseen circumstance, as new prehearing conference and due process hearing dates were scheduled by OAH after Student amended her complaint by Order dated August 19, 2021. The parties request a three-week continuance to dates in early November.

The request is granted. The current prehearing conference and due process hearing dates are vacated. The matter will be set as follow:

Prehearing Conference will be held on October 25, 2021, at 1:00 pm.

Due Process Hearing will be held on November 2, 2021 through November 4, 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 mediation set for September 16, 2021 will remain on calendar.

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