

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT

V.

BEVERLY HILLS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080395

ORDER GRANTING MOTION TO CONTINUE PREHEARING
CONFERENCE AND DUE PROCESS HEARING

SEPTEMBER 21, 2021

Student filed a request for due process hearing on August 12, 2021, with the Office of Administrative Hearings, naming Beverly Hills Unified School District. On September 1, 2021, OAH granted the parties joint request for a September 24, 2021 mediation. However, OAH denied the joint request for continuance because the mediation date preceded the scheduled prehearing conference and hearing dates. The continuance was not necessary for mediation and the parties failed to provide any explanation for a continuance of this matter.

On September 20, 2021, the parties filed a joint motion to continue the hearing because Beverly Hills and its lead attorney are in hearing in another due process matter

on the same dates as the hearing in this matter. The motion was supported by the declaration of Jabari Willis, counsel for Beverly Hills. Beverly Hills confirmed the other matter, which was filed before this matter, was proceeding to hearing. Student and Beverly Hills request continuance of the prehearing conference to November 22, 2021, and the due process hearing to November 30 through December 2, 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).)

Here, the parties have demonstrated good cause. Beverly Hills' attorney is unavailable for the presently scheduled hearing, Student supports the continuance, and

the parties have mutually agreed upon hearing dates. Also, this would be the first continuance. The motion is granted. The matter will be set as follows:

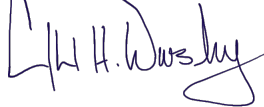
PREHEARING CONFERENCE will be held on November 22, 2021, at 10:00 AM.

DUE PROCESS HEARING will be held November 30 to December 2, 2021.

PARTICIPANT INFORMATION SHEETS FOR MEDIATION AND PREHEARING CONFERENCES MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

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. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with a showing of good cause why it was not timely filed.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley", is written over the typed name.

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings