

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNIFIED HIGH SCHOOL DISTRICT AND SAN
DIEGO COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2021050037

ORDER GRANTING JOINT STIPULATED REQUEST FOR
CONTINUANCE AND SETTING DUE PROCESS HEARING

OCTOBER 19, 2021

On October 19, 2021, counsel for all parties jointly filed a stipulated request to continue the due process hearing in this matter with the Office of Administrative Hearings, referred to as OAH. The stipulation followed a discussion regarding the hearing schedule during the October 15, 2021 prehearing conference, called PHC, with the undersigned administrative law judge, called ALJ.

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 hearing was scheduled for October 25, 26, and 27, 2021. The ALJ informed the parties at the PHC that OAH was dark on October 27 and 28, 2021. In addition, the ALJ and the parties clarified the issues as alleged in the complaint to include San Diego County Board of Education as a respondent to each issue. The ALJ ordered the parties to meet and confer after the PHC regarding the need for a short continuance based on OAH availability and the modified issues.

After meeting and conferring, the parties mutually agreed to continue the first day of hearing to November 2, 2021, with the matter continuing day to day at the

discretion of the ALJ. The parties timely filed their stipulation for a short continuance on October 19, 2021. The parties estimate they will need six days for hearing.

The parties have established good cause for a short continuance. The request for continuance is granted. All dates are vacated.

The hearing shall take place on November 2, 3 and 4, 2021, and continue day to day, as needed, at the discretion of the ALJ. The parties shall meet and confer regarding the proposed witness schedule and the ALJ will discuss the final hearing schedule with the parties on the first day of hearing. The parties requested November 11, 2021 as a hearing day. November 11, 2021 is Veterans Day and OAH is dark.

The parties shall timely exchange documents and identify witnesses five business days before the first day of hearing in compliance with Education Code section 56505 subdivision (e)(7). The last day to electronically upload exhibits to Caselines shall be close of business on Wednesday October 27, 2021.

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. Participant information sheets for hearing shall be filed with OAH no later than two business days before the first day of hearing.

All other orders by the ALJ in the Order Following Prehearing Conference dated October 15, 2021 remain in effect unless otherwise ordered.

IT IS SO ORDERED.

Adrienne L. Krikorian

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Administrative Law Judge

Office of Administrative Hearings