

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

VENTURA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021060660

ORDER FOLLOWING PREHEARING CONFERENCE

GRANTING REQUEST FOR CONTINUANCE OF

PREHEARING CONFERENCE ONLY

OCTOBER 26, 2021

On October 25, 2021, Administrative Law Judge Brian H. Krikorian, Office of Administrative Hearings, held a telephonic prehearing conference. The Office of Administrative Hearings will be referred to as OAH. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC.

Dina Kaplan and Valerie Vanaman, Attorneys at Law, appeared on behalf of Student. Melissa Hatch, Attorney at Law, appeared on behalf of Ventura Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

At the start of the PHC, the parties, orally and jointly, moved to continue the prehearing conference to allow the parties additional time to discuss resolution and settlement before the hearing. Due to OAH being dark on October 28 and 29, 2021, the PHC was moved back to October 26, 2021. The hearing is not until November 9, 2021. In addition, counsel for Ventura Unified is participating in an eight-day hearing and has been unable to converse with Student's counsel. The parties believed additional time would allow them to resolve the case.

The motion was not made three days before the PHC. However, the parties fully complied with the PHC requirements and established good cause for making the motion less than three days before this PHC. The motion was not opposed.

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).)

Because the parties are not seeking to continue the hearing, and because of circumstances beyond the control of the parties, the request for continuance of the PHC is granted for good cause.

Prehearing Conference: November 1, 2021 at 4:00 PM.

All other hearing dates shall remain unchanged.

All other prehearing matters shall be addressed at the November 1, 2021 prehearing conference. All prehearing motions must be filed three business days before the PHC.

SETTLEMENT

The parties shall immediately inform OAH in writing if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If the parties reach a settlement within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

If a full and final written settlement agreement is reached after 5:00 PM the day before the hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

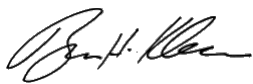
Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Brian H. Krikorian".

Brian H. Krikorian

Administrative Law Judge

Office of Administrative Hearings