

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

INGLEWOOD UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080090

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

OCTOBER 19, 2021

On October 19, 2021, the parties filed with the Office of Administrative Hearings, referred to as OAH, a joint request for a short second continue this matter, based upon the parties' settlement negotiations and agreement to an individualized education program, or IEP, team meeting that may resolve all or most issues in this matter.

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 participated in a mediation on October 1, 2021 and are close to a final agreement. The prehearing conference in this matter was moved forward due to OAH training, and the parties seek a continuance of approximately one month to avoid incurring unnecessary attorneys' fees to prepare for hearing, and because they have agreed to an IEP team meeting to be held this week which they believe will result in a resolution of this matter. The parties seek a continuance of the due process hearing from November 9, 2021 to December 14, 2021.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. Good cause for a continuance exists because the tentative settlement and agreement to hold an IEP team meeting was a significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing.

The continuance request was timely made, the length of the continuance sought is short, the case is not old, the parties have made a joint request, and there is no prejudice to either party.

The request for continuance is granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference will be held on December 3, 2021, at 3:00 pm.

Due Process Hearing will be held on December 14, 2021 through December 16, 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.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings