

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT

v.

BELLFLOWER UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080890

ORDER FOLLOWING PREHEARING CONFERENCE,
GRANTING PARTIES' JOINT MOTION FOR
CONTINUANCE OF HEARING

OCTOBER 18, 2021

On October 18, 2021, Administrative Law Judge Clifford H. Woosley, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Alexis Casillas, Attorney at Law, appeared on behalf of Student. Richard D. Brady, Attorney at Law, appeared on behalf of Bellflower Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

PARTIES' MOTION TO CONTINUE HEARING

The due process hearing is presently scheduled for October 26 and 27, 2021. On October 12, 2021, Student filed a motion to continue the hearing to December 7, 2021. On October 14, 2021, Bellflower filed a response. Bellflower did not oppose, but requested a continuance to January 11, 2022. On October 15, 2021, the parties filed a joint motion to continue the prehearing conference and the due process hearing to February 7, 8, and 9, 2022, citing conflicting hearing dates in other due process matters for the parties' attorneys and the unavailability of an expert witness.

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).)

Though a first request for continuance, the parties did not request mediation and failed to otherwise demonstrate good cause to continue the hearing for four months. Calendar conflicts and witness unavailability are insufficient to continue a hearing to almost six months after the complaint's filing. However, the parties did demonstrate good cause for a shorter continuance.

The parties' joint motion to continue is granted. All previously scheduled dates are vacated. The case shall proceed as follows:

PREHEARING CONFERENCE will be held on November 15, 2021, at 3:00 PM.

DUE PROCESS HEARING will be held on November 23 and 24, 2021.

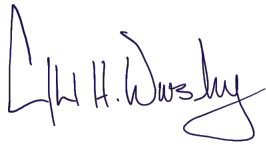
The prehearing conference and hearing will occur via videoconference.

ANY CHANGES TO THE PARTICIPANTS' EMAIL ADDRESSES PROVIDED BY THE PARTIES FOR THE PREHEARING CONFERENCE AND HEARING MUST BE FILED TWO BUSINESS DAYS BEFORE THE SCHEDULED EVENT.

The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge. Any amended 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 possible to file the motion by that date.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley". The signature is stylized with a large initial 'C' and a long, sweeping underline.

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings