

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080844

ORDER FOLLOWING PREHEARING VIDEOCONFERENCE
GRANTING REQUEST FOR CONTINUANCE

OCTOBER 11, 2021

On October 11, 2021, Administrative Law Judge Jennifer Kelly, 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.

Sheila C. Bayne, Attorney at Law, appeared on behalf of Student.
Robert Burgermeister, Student's advocate, also appeared on Student's behalf.
Ankita Thakkar, Attorney at Law, appeared on behalf of West Contra Costa Unified School District, referred to as West Contra Costa. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

DUE PROCESS HEARING

At the commencement of the prehearing conference, counsel notified the undersigned Administrative Law Judge that the parties have reached a settlement of this dispute in principal and are in the process of finalizing a settlement agreement. The parties jointly requested a brief continuance for the purpose of allowing the parties to finalize and execute the settlement agreement.

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).)

Good cause exists to continue this matter. The parties have reached an agreement in principal and requested a brief extension to finalize the settlement agreement. No previous continuances have been granted in this matter and allowing a brief continuance will further the interests of judicial economy. The request for continuance is granted for good cause. All previously scheduled dates are vacated. The case shall proceed as follows:

Prehearing Videoconference: October 15, 2021, at 3:00 PM.

Due Process Hearing by Videoconference: October 26 and 27, 2021. OAH is not holding hearings on October 28, 2021 due to statewide training. Any additional hearing days will be addressed at the due process hearing by the Administrative Law Judge.

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 ALJ.

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

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached 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. 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>.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to 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.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed 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.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings