

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LANCASTER SCHOOL DISTRICT.
OAH CASE NUMBER 2021060183

ORDER GRANTING REQUEST FOR CONTINUANCE

NOVEMBER 23, 2021

On November 22, 2021, Parents on behalf of Student and Lancaster School District filed with the Office of Administrative Hearings, referred to as OAH, a joint request to continue this matter based upon the parties' need to finalize a settlement agreement that has been delayed to due to the uncertainty of Student's residential placement. The parties represent that a determination of the Student's residential placement is necessary to finalize the terms of a settlement agreement. The parties request a continuance of the hearing to January 18, 19, and 20, 2022, the earliest dates that Lancaster School and its attorney are available for hearing.

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 request is granted. All dates are vacated. The continuance request is granted to allow the parties to finalize a settlement agreement once Student's residential placement is determined. This is the fifth continuance of this matter, and a continuance of the hearing for seven weeks, therefore, no further continuance of the hearing shall be granted. This matter will be set as follows:

Due Process Hearing will be held on January 19 and 20, 2022. The parties' request to start the hearing on January 18, 2022, is denied as January 17, 2022, is a holiday and OAH does not schedule hearings to begin on a date following a holiday.

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.

Electronic copies of exhibits shall be filed with OAH by 5:00 PM on January 11, 2022. Timely uploading of electronic hearing exhibits by 5:00 PM on January 11, 2022, constitutes the parties' timely exchange of evidence on each other in compliance with Education Code section 56505, subdivision (e)(7).

The parties are ordered to meet and confer no later than January 12, 2022, to discuss scheduling witnesses and how much time each witness will take. All prior orders not in conflict remain in full force and effect.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings