

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LAS VIRGENES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080290

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING VIDEOCONFERENCE MEDIATION, PREHEARING
CONFERENCE AND HEARING

NOVEMBER 23, 2021

On August 6, 2021, Student filed a due process complaint with the Office of Administrative Hearings, referred to as OAH, naming Las Virgenes Unified School District, as respondent. On September 17, 2021, the parties participated in a mediation. On October 25, 2021, OAH granted Student's motion to amend the due process complaint. On November 23, 2021, the parties filed a joint request to schedule a second mediation and to continue the due process 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 parties established good cause for a brief continuance to facilitate a second mediation. However, the parties failed to establish good cause for their request to continue the hearing for another two months after the requested mediation. Accordingly, the request for a continuance is granted. All dates are vacated. This matter shall be set as follows:

Mediation will be held via videoconference on January 21, 2022, 9:00 am to 4:30 pm.

Prehearing Conference will be held via videoconference on January 31, 2022, at 10:00 am.

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

Due Process Hearing will be held via videoconference on February 8, 9, and 10, 2022.

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.

Rita Defilippis

Rita Defilippis

Administrative Law Judge

Office of Administrative Hearings