

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CENTRAL SCHOOL DISTRICT.
OAH CASE NUMBER 2021080492

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING PREHEARING CONFERENCE AND HEARING

NOVEMBER 10, 2021

On August 17, 2021, Student filed a request for due process hearing with the Office of Administrative Hearings, referred to as OAH, naming Central School District as respondent. On September 1, 2021, the parties' jointly requested continuance was granted to allow the parties to mediate. On November 3, 2021, Student amended his complaint and timelines were reset. A new scheduling order was issued. On October 9, 2021, the parties submitted a joint stipulation to continue the hearing dates based upon a conflict with an earlier filed case involving common parties and witnesses on the same hearing dates assigned in this case and the fact that Central's schools were closed for winter break and several witnesses were not available. No specific witness was identified as unavailable.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

OAH does not grant continuances based on party stipulation. The stipulation to continue this matter is being treated as a joint motion to continue the case. OAH does not grant continuances based on district holidays. Here, no specific witness was identified as being unavailable due to the scheduled holiday. However, good cause has been demonstrated based on counsel unavailability due to two cases being scheduled for the same dates at the same time. The earlier filed case takes priority. The parties have not demonstrated cause to continue the case to March 2022.

The joint request for continuance is Granted. All previously scheduled dates in this matter are vacated. This matter will be set as follows:

PREHEARING CONFERENCE will be held on January 7, 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 on January 19 and 20, 2022. Hearings are not being scheduled to begin on January 18, 2022, due to the Martin Luther King Jr. holiday. The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, Mondays and Fridays included, 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 document by that date.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings