

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

V.

CALIFORNIA CONNECTIONS ACADEMY.

OAH CASE NUMBER 2021080880

ORDER GRANTING CALIFORNIA CONNECTIONS
ACADEMY'S MOTION FOR CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND HEARING

NOVEMBER 16, 2021

On November 10, 2021, California Connections Academy filed with the Office of Administrative Hearings, referred to as OAH, a motion to continue this matter, based upon the unavailability of its counsel. On November 12, 2021, Student filed opposition.

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).)

PROCEDURAL HISTORY

On August 30, 2021, Student filed a Due Process Hearing Request. At the October 4, 2021, prehearing conference, the hearing was ordered continued to November 9 and 10, 2021. On October 13, 2021, OAH granted Student's motion to file a first amended complaint and issued a new scheduling order, setting the hearing for December 7 through 9, 2021.

California Connections filed a notice of insufficiency. On October 15, 2021, OAH issued an Order determining that some issues in Student's first amended complaint were insufficiently pled. Student was given 14 days to file an amended pleading. On November 1, 2021, OAH found that Student timely submitted a second amended complaint, which was deemed filed. OAH issued a new scheduling order, setting hearing for December 28 through 30, 2021.

DISCUSSION

On November 1, 2021, attorney Handley communicated with Student, an unrepresented litigant, and requested a short continuance of the newly assigned hearing dates because of a calendaring conflict. Student agreed and, on November 5, 2021, signed a joint request to continue the hearing to January 18, 2021. California Connections filed the executed joint continuance request on November 5, 2021. On November 8, 2021, Student filed multiple motions asking that the hearing be advanced to earlier dates. On November 8, 2021, OAH issued an Order denying the joint request for continuance because of Student's contrary filings. Therefore, California Connections filed a motion and explained the need for a continuance.

California Connections seeks a short, three-week continuance to January 18, 19, and 20, 2022. Attorney Matejka Handley has represented California Connections at all times since the initial filing of Student's due process request and submitted a supporting declaration. Attorney Handley has a long-planned, prepaid, out-of-state trip, which includes the week of the newly assigned due process hearing dates.

California Connections has demonstrated good cause for the requested continuance. Student will not be unduly prejudiced by the short continuance. The motion to continue the hearing is granted. All dates are vacated, and the matter is scheduled as follows:

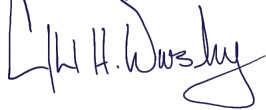
PREHEARING CONFERENCE will be held on January 7, 2022, at 3:00 PM.

DUE PROCESS HEARING will be held on January 19 and 20, 2022.

NOTE: The requested hearing date of January 18, 2021, is unavailable because the first day of hearings is not scheduled on a Tuesday following a Monday legal 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. 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.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley", written over the typed name.

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings