

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

TEMPLE CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090230

ORDER GRANTING REQUEST TO RESCHEDULE
PREHEARING CONFERENCE AND ORDER CONTINUING
HEARING DATE

NOVEMBER 29, 2021

On November 29, 2021, the parties filed with the Office of Administrative Hearings, referred to as OAH, a joint request to reschedule the prehearing conference from 3:00 PM on Monday, November 29 to 3:00 PM on Friday, December 3. The request is granted.

This matter has previously been continued once, following the parties' October 14, 2021 joint request to schedule a mediation. If the prehearing conference is continued as requested, sufficient time must be allowed for the parties to comply with

any directives in the prehearing conference order, exchange lists of witnesses and documents, and schedule appearances of witnesses.

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).)

Other than to allow mediation, there have been no previous continuance requests and the parties appear to have been working diligently to resolve the case. Accordingly, OAH has will continue the hearing date by one week to grant the parties' request to move the Prehearing Conference to December 3, 2021.

The prehearing conference in this matter will be held on December 3, 2021, at 3:00 PM. The Due Process Hearing will be held on December 14 through December 16, 2021. 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. No further continuances shall be granted.

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.

Chris Butchko

Chris Butchko

Administrative Law Judge

Office of Administrative Hearings