

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

HEMET UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090616

ORDER GRANTING REQUESTS FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING CONFERENCE AND
DUE PROCESS HEARING DATES

NOVEMBER 5, 2021

On November 3, 2021, Hemet filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon counsel's obligation to represent a client at hearing in a conflicting and earlier-filed matter. On November 4, 2021, the parties jointly filed a request for continuance and a mediation date. On November 5, 2021, Student filed a non-opposition to Hemet's request for continuance.

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 requests for good cause and considered all relevant facts and circumstances. Hemet's request to continue and the parties' joint request to continue and set a mediation date are:

Granted. All dates are vacated. Hemet's continuance request was timely filed. The joint motion was not, but it appears that good cause supports the tardy filing as Hemet has only recently learned that its Special Education Director, the District's intended representative at hearing and an essential witness for Hemet, had just been summoned to jury duty on days that conflict with the hearing as currently scheduled. This matter will be set as follows:

Mediation will be held on November 16, 2021, from 9:00 a.m. to 4:30 p.m. The mediation will be conducted by videoconference.

Prehearing Conference will be held on November 15, 2021, at 3:00 p.m.

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 November 23 and 24, 2021. The hearing shall begin at 9:30 a.m. 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.

Charles Marson

Charles Marson

Administrative Law Judge

Office of Administrative Hearings