

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

FEATHER RIVER CHARTER SCHOOL.
OAH CASE NUMBER 2021090794

ORDER GRANTING REQUEST FOR CONTINUANCE

NOVEMBER 5, 2021

On September 23, 2021, Student filed a complaint with the Office of Administrative Hearings, or OAH. On November 1, 2021, Feather River Charter School timely filed a request to continue this matter, based upon the unavailability of its counsel. Feather River sought a continuance until February 1, 2022, based upon counsel's unavailability due a hearing conflict with an earlier-filed OAH case, number, 2021060807. The request was also based on co-counsel's unavailability due to conducting training sessions, and district closures. On November 3, 2021, Student filed a non-opposition as to Feather River's request to continue, but objected to the length of the continuance Feather River requested.

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).)

Since the filing of Feather River's continuance request, OAH has continued Case No. 2021060807, and thus the present case has no scheduling conflict with that earlier-filed case. Nevertheless, good cause exists to grant Feather River's request for continuance based on co-counsel's unavailability due to conducting training sessions on November 16 and 17, 2021. Feather River did not, however, establish good cause for the length of the continuance it requested. Feather River provided evidence of unavailability only through November 17, 2021; Feather River did not establish unavailability through February 1, 2022.

The request for continuance is granted. All previously scheduled dates are hereby vacated, and this matter will be set as follows:

Prehearing Conference will be held on November 19, 2021 at 10:00 AM.

Due Process Hearing will be held on November 30, through December 2, 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.

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.

Claire Yazigi

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Administrative Law Judge

Office of Administrative Hearings