

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021090800

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING PREHEARING CONFERENCE AND HEARING BY
VIDEOCONFERENCE

NOVEMBER 12, 2021

On September 27, 2021, Student filed a request for due process in this matter, naming Antelope Valley Union High School District. On October 21, 2021, Student's attorney filed a motion to withdraw from this case. On October 22, 2021, the Office of Administrative Hearings, referred to as OAH, granted Student's attorney's motion to withdraw, and issued an Order Granting Motion to Withdraw as Attorney. On November 4, 2021, Mother filed Student's request to continue due process hearing, based on the ground that Mother needed additional time to find and retain an attorney to represent Student in this case. Mother served Antelope Valley Union High School

District with Student's request to continue due process hearing via email on November 8, 2021. Antelope Valley Union High School District did not file an opposition to Student's request to continue the hearing. No attorney has appeared in this matter to date on behalf of Antelope Valley Union High School District.

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 request for good cause and considered all relevant facts and circumstances. The request is:

Granted. All dates are vacated. The continuance request is granted because Student's need for additional time to find and retain a new attorney constitutes good cause for the requested continuance. However, the continued dates for the prehearing conference and due process hearing requested by Student were not available. This matter will be set as follows:

The Prehearing Conference will be held on January 7, 2022, at 1:00 PM.

The Due Process Hearing will be held on January 19, 2022, through January 20, 2022. 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 hearing shall be conducted via videoconference, using the Microsoft Teams application.

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Based on state and federal guidance to address safety procedures due to the novel coronavirus, COVID-19, OAH will conduct the due process hearing by videoconference using the Microsoft Teams application. Unless otherwise ordered, participants are required to appear by videoconference using a webcam and Microsoft Teams.

The parties shall immediately notify all potential witnesses of the hearing dates and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena>

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.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings