

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

BELLFLOWER UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100325

AMENDED ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING PREHEARING CONFERENCE
AND HEARING

NOVEMBER 29, 2021

On October 12, 2021, Student filed a request for due process hearing with the Office of Administrative Hearings, referred to as OAH, naming Bellflower Unified School District as respondent. On November 19, 2021, Bellflower moved to continue the hearing in this matter, which is scheduled to begin on December 7, 2021, based upon a conflict with an ongoing hearing which is currently scheduled to continue on December 2, 7, 8, and 9, 2021. On November 19, 2021, Student filed a non-opposition. This amended order granting the continuance changes only the time of the December 6, 2021 Prehearing Conference.

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).)

An ongoing hearing generally takes priority and constitutes good cause for a continuance. However, Bellflower has not demonstrated good cause for dates in “February or March” as requested. Bellflower identified additional hearings dates for earlier filed cases. Bellflower also asserted that its employees have non-duty days during winter break. Additionally, the parties did not request a mediation be scheduled, that may have constituted good cause to continue the matter.

The conflicting matter identified by Bellflower for December 14-17 is not a special education matter. Although it appears to be earlier filed, no law was cited establishing that a personnel disciplinary matter takes precedence over a special education dispute governed by the IDEA’s strict timelines. Additionally, winter break, and a non-duty schedule, do not constitute good cause for a continuance. No specific witness unavailability or conflicts were identified during winter break.

The request for continuance is granted. All dates currently scheduled in this matter are hereby vacated. This matter will be set as follows:

PREHEARING CONFERENCE will be held on December 6, 2021, at *3:00 PM.

*Please note change of Prehearing Conference Time.

DUE PROCESS HEARING will be held on December 14, 15, and 16, 2021. The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, Mondays and Fridays included, 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.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings