

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN JOSE UNIFIED SCHOOL DISTRICT.
OAH CASE NUMBER 2021110439

ORDER GRANTING REQUEST FOR CONTINUANCE

DECEMBER 1, 2021

On November 2, 2021, San Jose Unified School District filed with the Office of Administrative Hearings, or OAH, a request to continue this matter for three reasons. First, San Jose expressed a desire for mediation. Second, San Jose identified hearing conflicts with two other earlier-filed OAH cases during the week of December 14, 2021, and had an otherwise impacted calendar generally. Third, San Jose expressed concern that district personnel and witnesses would not be available during any hearing scheduled during winter break. As a result, San Jose requested that this hearing be continued to February 2022. On November 29, 2021, Student opposed the length of continuance sought by San Jose.

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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. While San Jose has expressed an interest in mediation, the parties have yet to jointly request mediation from OAH. Additionally, winter break is not good cause to continue as no specific witness unavailability was identified. Good cause exists to continue hearing in this matter due to the conflicting earlier filed cases, but not for the length of time requested by San Jose. This matter will be set as follows:

Prehearing Conference will be held on December 27, 2021 at 10:00 AM.

Due Process Hearing will be held on January 4, 5, and 6, 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 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.

A handwritten signature in cursive script that reads "Claire Yazigi".

Claire Yazigi

Administrative Law Judge

Office of Administrative Hearings