

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

EXCEL ACADEMY CHARTER SCHOOL,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2021110340

ORDER FOLLOWING PREHEARING CONFERENCE FOR

HEARING BY VIDEOCONFERENCE

NOVEMBER 29, 2021

On November 29, 2021, Administrative Law Judge Penelope Pahl, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorneys Deborah Cesario and Vianey Prado appeared on behalf of Excel Academy Charter School. Parent appeared on behalf of Student. Larisa Lucaci provided Romanian interpretation for Parent. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

ALJ'S *SUA SPONTE* ORDER OF CONTINUANCE

At the commencement of the prehearing conference, the undersigned noted that Romanian translations of documents had not yet been received from translators and thus had not yet been provided to Parent. In the interest of due process, the case was continued on the ALJ's own motion to allow Parent the opportunity to review the case documents in her native language. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on January 14, 2022, at 10:00 AM

PARTICIPANT INFORMATION SHEETS FOR MEDIATION AND PREHEARING CONFERENCES MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

HEARING will be held on January 25, 26, and 27, 2022.

The hearing shall begin at 9:30 AM on all days unless otherwise ordered. After the scheduled dates, the hearing shall continue day to day, as needed, at the discretion of the Administrative Law Judge. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with a showing of good cause why the document was not timely filed.

HEARING LOCATION

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) 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>.

PENDING MOTION TO BIFURCATE

Excel Academy has filed a motion to bifurcate asking that the hearing be held in two parts. Student has a right to reply to this request. As stated in the prehearing conference, Student will have three days after receipt of the Romanian version of the motion to file any response to Excel's request to bifurcate the hearing that Student would like OAH to consider. OAH will rule on the motion after the three days have expired.

LANGUAGE INTERPRETERS AND REASONABLE ACCOMMODATIONS

A Romanian language interpreter is required. OAH will provide the interpreter.

A party or participant in this case, such as a witness, requiring reasonable accommodation to participate in a mediation, prehearing conference or hearing may contact OAH at (916) 263-0880, or send an email to OAHADA@dgs.ca.gov as soon as the need is known. The e-mail should have "Request for Accommodation" in the Subject Line. Additional information concerning requests for reasonable accommodation is available on OAH's website at: <https://www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Accommodations-at-OAH>.

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ.

If the matter settles subject to board approval, in addition to a signed copy of the

signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings