

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LAS VIRGENES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080290

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING PREHEARING CONFERENCE AND HEARING

DECEMBER 28, 2021

On December 21, 2021, Las Virgenes Unified School District filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon the ground that counsel for Las Virgenes Unified School District is not available to appear at the hearing on the present initial hearing date of February 8, 2022, which date was selected by OAH, and not by the parties. Student did not oppose the request, and according to the declaration of Las Virgenes Unified School District's counsel, Student's attorney agreed to the requested hearing dates of February 15, 2022, through February 17, 2022.

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, except for the mediation scheduled for January 21, 2022, which remains on calendar. The continuance request is granted as the unavailability of Las Virgenes Unified School District's counsel due to a preplanned vacation constitutes good cause for the requested one-week continuance. This matter will be set as follows:

Prehearing Conference will be held on February 4, 2022, at 1:00 PM.

Due Process Hearing will be held on February 15, 2022, through February 17, 2022. The hearing shall begin at 9:30 AM on all days unless otherwise ordered and will end about 3:30 PM each day. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge. The hearing will be conducted via videoconference using Microsoft Teams application.

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.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings