

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

V.

MONTEBELLO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090739

ORDER GRANTING JOINT MOTION FOR CONTINUANCE
AND SETTING PREHEARING CONFERENCE AND HEARING

DECEMBER 17, 2021

On December 16, 2021, Student and Montebello Unified School District filed with the Office of Administrative Hearings, referred to as OAH, a joint motion to continue this matter, based upon the need to complete a reading intervention assessment. The motion includes the declaration of Student's counsel. The hearing is presently set to begin January 19, 2022 and the parties seek a short continuance to February 8, 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 parties resolved all issues following a resolution session, including agreement upon an intensive reading program for Student. However, the parties await the results of an evaluation to determine the appropriate program hours. The evaluation was delayed a few weeks because some of the evaluation's participants were ill. The parties seek a short, three-week hearing continuance to review the evaluation and finalize an agreement.

The parties have demonstrated good cause and the motion is granted: All dates are vacated, and the matter will be set as follows:

PREHEARING CONFERENCE will be held on January 28, 2022, at 3:00 PM.

DUE PROCESS HEARING will be held on February 8, 9 and 10, 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. 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 it was not possible to file the motion by that date.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley", is written over the typed name.

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings