

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

AND

ORINDA UNION SCHOOL DISTRICT,

OAH CASE NUMBER 2021070616

OAH CASE NUMBER 2021110064

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING PREHEARING CONFERENCE AND DUE PROCESS
HEARING

JANUARY 24, 2022

On January 21, 2022, Orinda Union School District filed with the Office of Administrative Hearings, referred to as OAH, a request to continue the hearing scheduled to begin on February 1, 2022, based on the illness of its counsel. According to the request, Orinda's counsel became ill last week and tested positive for COVID-19 on January 21, 2022 and is not well enough to prepare for and participate in the February 1, 2022 hearing. Orinda seeks a short continuance of the hearing, to February 15 through 17, 2022, which Student does not oppose.

On January 21, 2022, Student filed a notice of non-opposition which also confirmed Student's witnesses are available on February 15 through 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. Orinda counsel's recent illness and January 21, 2022 positive COVID-19 result is both good cause for the requested continuance and for not earlier filing the request. The requested continuance is relatively short, and Student does not oppose

the request. All dates are vacated. Because this case has been pending since July 2021, OAH does not contemplate any further continuances. This matter will be set as follows:

Prehearing Conference will be held on February 4, 2022, at 1:00 PM. Prehearing Conferences are generally held about ten days prior to the first day of hearing.

Due Process Hearing will be held on February 15 through 17, 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. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. 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.

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

ANY CHANGES TO THE PARTICIPANTS' EMAIL ADDRESSES PROVIDED BY THE PARTIES MUST BE FILED TWO BUSINESS DAYS BEFORE THE SCHEDULED EVENT.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings