

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

VALLEJO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090090

ORDER FOLLOWING PREHEARING CONFERENCE
GRANTING REQUEST FOR CONTINUANCE

JANUARY 7, 2022

On January 7, 2022, Administrative Law Judge Adrienne L. Krikorian, 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.

Christian Knox, Attorney at Law, appeared on behalf of Student. Anne Sherlock, Attorney at Law, appeared on behalf of Vallejo City Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

The parties jointly requested at the outset of the PHC to continue the PHC and due process hearing. The parties established good cause for making the request at the PHC instead of filing a request for continuance. The parties have reached an agreement in principle subject to approval by the school board and are circulating a formal written settlement agreement for signature. Counsel for both parties requested a short continuance of the PHC and due process hearing to allow for finalizing settlement documentation.

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).)

The request for continuance is granted for good cause. All previously scheduled dates are vacated. No further continuances will be granted without a showing of extraordinary good cause by declaration under penalty of perjury.

The case shall proceed as follows:

The PHC will take place by videoconference on January 24, 2022 at 10:00 a.m. The parties have timely filed PHC statements and are not required to file a new statement unless circumstances change. Prehearing motions must be filed no later than three business days before the PHC. All other prehearing matters shall be addressed at the January 24, 2022 PHC.

The due process hearing will take place by videoconference on February 8, 9 and 10, 2022. The hearing shall begin at 9:30 AM and end at 3:30 p.m. on all hearing days, unless otherwise ordered. The hearing shall continue day to day at the discretion of the ALJ.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

SETTLEMENT

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. The assigned ALJ will check for messages before the hearing.

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.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Adrienne L. Krikorian

Adrienne L. Krikorian
Administrative Law Judge
Office of Administrative Hearings