

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090831

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING DATES FOR PREHEARING CONFERENCE AND
HEARING

JANUARY 5, 2022

On January 4, 2022, Student filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon unavailability of counsel. On January 4, 2022, Los Angeles Unified School District filed a notice of non-opposition to the request.

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. Good cause exists due to the unavailability of counsel due to illness. The request is:

Granted. All dates are vacated. Although the motion states that the parties have found alternate dates for the prehearing conference and hearing which the parties have jointly discussed and agreed upon, OAH has been unable to ascertain those dates based upon the filings received. Accordingly, this matter will be set as follows:

The Prehearing Conference will be continued for one week, to be held on January 14, 2022, at 3:00 PM.

The Due Process Hearing will be held on January 25 through January 27, 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. 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.

Should the parties wish to have this matter mediated, they are advised to make a motion for mediation as soon as possible and must include, as they have done here, a narrative explanation of why the previous mediation was cancelled and should be rescheduled. As part of such motion for mediation, the parties may propose specific mutually agreeable dates for the PHC and hearing.

IT IS SO ORDERED.

Chris Butchko

Chris Butchko

Administrative Law Judge

Office of Administrative Hearings