

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
  
CALAVERAS COUNTY OFFICE OF EDUCATION AND CALAVERAS  
UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2021100579

ORDER FOLLOWING PREHEARING CONFERENCE FOR  
HEARING BY VIDEOCONFERENCE AND GRANTING  
CONTINUANCE OF DUE PROCESS HEARING

JANUARY 28, 2022

On January 28, 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. The PHC was recorded.

Attorney Eliza McArthur appeared on behalf of Calaveras County Office of Education and Calaveras Unified School District. Parent did not appear. The ALJ and

Ms. McArthur's assistant both unsuccessfully attempted to reach Parent by phone for the prehearing conference, and left messages.

Ms. McArthur reported that Parent verbally notified Ms. McArthur's office that Student's family had moved out of state. Ms. McArthur requested that OAH continue the due process hearing for two weeks to allow Ms. McArthur time to confirm that Student no longer lived within the jurisdiction of Calaveras County Office of Education and Calaveras Unified School District, which would then justify dismissal of the complaint.

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. The case shall proceed as follows:

The prehearing conference is continued to February 7, 2022 at 1:00 p.m. by videoconference. Parent shall file a Participant Information Form no later than close of business on February 3, 2022, which must include a contact phone number and email address. All other prehearing matters will be addressed at the February 7, 2022 PHC. All prehearing motions must be filed three business days before the PHC.

The due process hearing will take place by videoconference on February 15, 16, and 17, 2022. The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, 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 appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing.

## SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

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.

IT IS SO ORDERED.

*Adrienne L. Krikorian*

Adrienne L. Krikorian  
Administrative Law Judge  
Office of Administrative Hearings