

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SULPHUR SPRINGS UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2021110736

ORDER GRANTING REQUEST FOR CONTINUANCE

JANUARY 31, 2022

On November 29, 2021, Student filed with the Office of Administrative Hearings, referred to as OAH, a request for a due process hearing naming Sulphur Springs Union Elementary School District. On December 20, 2021, the parties jointly filed a request to continue this matter and a request for mediation. OAH granted the parties' request on December 20, 2021. On January 31, 2022, the parties filed a second to continue this matter, based upon the unavailability of Sulphur Springs Union's Director of Special Education.

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. The parties established good cause for a second continuance based on a medical emergency. All dates are vacated. This matter will be set as follows:

MEDIATION DATE is February 11, 2022, 9:00 AM to 4:30 PM.

MEDIATION will occur via telephone or video.

PREHEARING CONFERENCE will be held on April 1, 2022, at 1:00 PM.

DUE PROCESS HEARING will be held on April 12, 2022, through April 14, 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 timely filed.

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.

IT IS SO ORDERED.

Linda Johnson

Linda Johnson

Administrative Law Judge

Office of Administrative Hearings