

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

V.

AVESON CHARTER SCHOOL.
OAH CASE NUMBER 2021080796

ORDER FOLLOWING PREHEARING CONFERENCE FOR
HEARING BY VIDEOCONFERENCE AND CONTINUING THE
DUE PROCESS HEARING

JANUARY 14, 2022

On January 14, 2022, Administrative Law Judge Laurie Gorsline, 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.

Bryan Winn, Attorney at Law, appeared on behalf of Student. Ernest Bell, Attorney at Law, appeared on behalf of Aveson Charter School. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

DUE PROCESS HEARING

At the PHC, the parties informed the ALJ that the matter had just settled and the settlement agreement was in the process of being signed by the parties. The ALJ explained that the PHC could not be trailed to Monday, January 17, 2022 because it was a holiday. After discussing the options, the parties requested a one-week continuance of the PHC and hearing dates to permit the parties to sign and file the required settlement documentation/dismissal with OAH.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The ALJ finds good cause for a one-week continuance based on the representations of counsel that the matter has settled and that the settlement agreement is being circulated for signature. All previously scheduled dates in this matter are vacated. The new dates are as follows:

PREHEARING CONFERENCE will be held on January 21, 2022 at 10:00 AM.

DUE PROCESS HEARING will be held on February 1 through 3, 2022.

PARTICIPANT INFORMATION SHEETS FOR MEDIATION AND 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.

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 possible to file the document by that date.

HEARING LOCATION

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Based on state and federal guidance to address safety procedures due to the novel coronavirus, COVID-19, OAH will conduct the due process hearing by videoconference using the Microsoft Teams application. Unless otherwise ordered, participants are required to appear by videoconference using a webcam and Microsoft Teams.

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. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena>.

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.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings