

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT

V.

BELLFLOWER UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080890

ORDER FOLLOWING PREHEARING CONFERENCE,
GRANTING REQUEST TO AMEND COMPLAINT AND
GRANTING JOINT MOTION TO CONTINUE DUE PROCESS
HEARING

JANUARY 31, 2022

On January 31, 2022, Administrative Law Judge Clifford H. Woosley, 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.

Alexis Casillas, Attorney at Law, appeared on behalf of Student. Richard Brady, Attorney at Law, appeared on behalf of Bellflower Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

STUDENT'S REQUEST TO AMEND COMPLAINT

On August 31, 2021, Student filed a request for due process hearing, naming Bellflower. On October 15, 2021, OAH granted the parties' joint request for mediation, and continued the prehearing conference to January 31, 2022, and the hearing to February 8 through 9, 2022.

On January 25, 2022, Student filed a request for leave to file an amended complaint, supported by the parties' written stipulation that Bellflower consents to the amendment. Student's counsel explained at the prehearing conference that family health matters delayed an earlier filing of the request to amend.

An amended complaint may be filed when the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or when the hearing officer grants permission. The hearing officer may grant permission at any time more than five days before the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

Here, Bellflower gave written consent to the amendment. Student's counsel provided details of family health matters that reasonably delayed an earlier filing of the amendment request. The motion to amend is granted. Student's proposed amended complaint is deemed filed on the date of this order.

JOINT MOTION TO CONTINUE DUE PROCESS HEARING

The filing of Student's amended complaint resets the case's timeline, and OAH would have issued a new scheduling order with due process hearing dates of March 15 through 17, 2022. The parties jointly requested that these hearing dates be continued to March 29, 2022, because Bellflower's attorney is scheduled for another due process hearing, which was filed before this matter.

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).)

Here, the parties have demonstrated good cause for the short continuance. Bellflower's attorneys are engaged in a previously scheduled due process hearing in another, older due process matter. The parties have cooperated and agreed upon the proposed dates for continuance. The joint motion for a continuance is granted.

The ALJ cautioned, and the parties acknowledged, that the new due process hearing dates will not be continued, absent extraordinary good cause. Further delay in this matter's hearing would be contrary to state and federal special education law's public policy of efficient and timely due process hearings.

ORDER

1. Student's motion to amend is granted. Student's amended complaint is deemed filed on the date of this order.
2. All applicable timelines are reset.
3. The parties' joint motion to continue is granted.
4. All dates are vacated, and this matter is set as follows:

PREHEARING CONFERENCE will be held on March 21, 2022 at 3:00 PM.

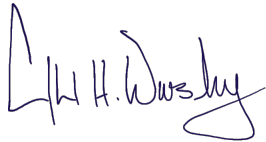
DUE PROCESS HEARING will be held on March 29 and 30, 2022.

PARTICIPANT INFORMATION SHEETS FOR PREHEARING CONFERENCES AND HEARINGS MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF 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 timely filed.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley". The signature is stylized with a large initial "C" and a long, sweeping underline.

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings