

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT

V.

WESTSIDE UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2021090703

ORDER GRANTING MOTION TO CONTINUE DUE PROCESS
HEARING

FEBRUARY 01, 2022

Student filed a request for due process hearing on September 21, 2021, with the Office of Administrative Hearings, called OAH, naming Westside Union School District. On October 27, 2021, OAH granted the parties' joint request to schedule a mediation on January 4, 2022, and continue the prehearing conference to February 4, 2022, and the due process hearing to February 15 through 17, 2022. On January 31, 2022, the parties filed a joint motion to continue the due process hearing, supported by an executed stipulation, because Westside Union's attorney is scheduled for hearing in another, older due process hearing.

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 parties have demonstrated good cause. The hearing conflict resulted from a January 24, 2022 OAH order granting a continuance of the other, older due process hearing to February 15, through 2022. The parties have agreed to new hearing dates and stipulated that neither party is prejudiced by the continuance.

The motion to continue the hearing is granted. All dates are vacated, and the matter is set as follows:

PREHEARING CONFERENCE will be held on April 1, 2022, at 3:00 PM.

DUE PROCESS HEARING will be held on April 12, 13, and 14, 2022.

PARTICIPANT INFORMATION SHEETS FOR PREHEARING CONFERENCES 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", is written over the typed name.

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings