

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

ALAMEDA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021110161

ORDER CONTINUING PREHEARING CONFERENCE AND
HEARING DATES

FEBRUARY 09, 2022

On January 27, 2022, Student filed with the Office of Administrative Hearings, referred to as OAH, a request for accommodation to be provided by OAH for the prehearing conference, called a PHC, and the due process hearing. OAH has been diligently attempting to arrange the requested accommodations, but has been unable to do so as of this time. On its own motion, OAH now moves to continue the PHC and hearing dates to allow time for the requested accommodations to be arranged.

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).)

On its own motion, OAH moves to continue the PHC and hearing dates to allow time for the requested accommodations to be arranged. Good cause for the continuance is found in the necessity of the requested accommodations, along with the inability to arrange such accommodations as of this date, and the need for a reasonable continuance of the PHC and hearing dates to allow time for the accommodations to be secured. As such, OAH's own motion is granted and the current PHC and hearing dates are vacated.

This matter will be set as follows:

Prehearing Conference will be held on Monday, March 14, 2022, at 1:00 PM.

Due Process Hearing will be held on March 22, 2022, through March 24, 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.

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. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with evidence of good cause why it was not possible to file the motion by that date.

IT IS SO ORDERED.

Ted Mann

Ted Mann

Administrative Law Judge

Office of Administrative Hearings