

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022010061

ORDER GRANTING REQUEST FOR CONTINUANCE OF DUE
PROCESS HEARING

FEBRUARY 11, 2022

On January 4, 2022, Parents on behalf of Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Long Beach Unified School District. OAH set the prehearing conference for February 14, 2022, and the due process hearing to begin on February 23, 2022.

On February 7, 2022, Long Beach filed a motion for hearing continuance to March 8, 2022, due to counsel's unavailability. Counsel asserts that counsel is representing a client in an OAH expedited hearing beginning February 23, 2022. Expedited hearings do not allow for hearing continuances. Additionally, Long Beach maintains that it was unable to hold a resolution session within the 30-day resolution period due to

unavailability of Parents and it is set for February 8, 2022. Long Beach argues that the delay in the resolution session has prejudiced it and delayed its ability to prepare for the due process hearing. Thus, for all of the reasons stated, it requests a short hearing continuance to March 8, 2022.

On February 9, 2022, Long Beach filed a supplemental pleading to its continuance request stating that the February 8, 2022 resolution session did not occur due to the fault of Parents, and further reiterated the prejudice to Long Beach and the need for a continuance in this matter. On February 11, 2022, Student filed opposition to the motion for a hearing continuance.

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; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See 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; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

The undersigned reviewed the request for a hearing continuance and considered all relevant facts and circumstances. Long Beach's counsel established good cause by way of declaration of counsel's unavailability. Considering all factors present in this case, good cause was established for the length of continuance requested. Accordingly, Long Beach's request for a hearing continuance is granted. All dates are vacated. The matter will be set as follows:

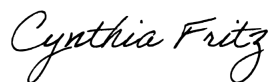
PREHEARING CONFERENCE will be held on February 25, 2022, at 3:00 PM.

DUE PROCESS HEARING will be held on March 8, 9, and 10, 2022.

PARTICIPANT INFORMATION SHEETS FOR PREHEARING CONFERENCES MUST BE FILED TWO BUSINESS DAYS BEFORE 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 cursive script that reads "Cynthia Fritz".

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings