

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CHINO VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022010076

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING PREHEARING CONFERENCE AND DUE PROCESS
HEARING

FEBRUARY 14, 2022

On February 8, 2022, Chino Valley Unified School District filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon Chino Valley's counsel's unavailability. On February 11, 2022, Student filed a non-opposition.

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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. This is Chino Valley's first request for a continuance. The hearing date is set for February 23 and 24, 2022. Chino Valley's attorneys are scheduled for hearings during the week of February 22, 2022, in matters that pre-date this case and which have already been continued. Student has filed a non-opposition, conceding that the conflict for Chino's counsel is good cause.

While calendar conflicts alone are insufficient cause, this is the first continuance request. Because February is a short month due to OAH training during the week of February 28, 2022, good cause exists for a short continuance. Chino Valley's motion is granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference will be held on March 7, 2022, at 1:00 PM.

Due Process Hearing will be held on March 15, 2022, through March 17, 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.

A handwritten signature in black ink, appearing to read "Brian H. Krikorian".

Brian H. Krikorian

Administrative Law Judge

Office of Administrative Hearings