

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 2022010173

ORDER GRANTING REQUEST FOR CONTINUANCE

FEBRUARY 10, 2022

On February 7, 2022, Long Beach Unified School District timely filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter to April 5, 6, and 7, 2022. Long Beach's request was based upon the following: Long Beach's representative, who will also testify as a witness, is unavailable on the current hearing dates due to participation in another due process hearing in earlier-filed OAH case number 2021090607; Long Beach's counsel is unavailable due to hearings in other OAH cases; and mediation is set for three days before hearing, which will not allow the parties sufficient time to either settle or prepare for hearing.

On February 8, 2022, Student opposed the request because of Student's allegation that Student is in an inappropriate placement, and that delay of hearing would prolong harm to Student. Student argued that Long Beach has other district

representatives and counsel available that would enable Long Beach to proceed on the currently scheduled hearing dates.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Long Beach did not establish good cause to continue based on the proximity of mediation to hearing. Long Beach did, however, establish good cause to continue based on the unavailability of Long Beach's representative, whom Long Beach also plans to call as a witness. No continuance has yet been granted in this case.

Long Beach did not establish good cause for the length of continuance requested. Due to annual ALJ training, OAH will not be conducting due process hearings on March 1, 2, and 3, 2022. As such, this matter will be continued to March 8, 9, and 10, 2022. Long Beach cited a scheduling conflict with these dates due to its counsel's involvement in another OAH due process hearing. The conflicting case, OAH case number 2022010417, is a later-filed case and has since been dismissed.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request to continue is granted. All dates are vacated and the matter will be set as follows:

Prehearing Conference will be held on February 25, 2022, at 1:00 PM.

Due Process Hearing will be held on March 8, 9, and 10, 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 cursive script that reads "Claire Yazigi".

Claire Yazigi

Administrative Law Judge

Office of Administrative Hearings