

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

WASHINGTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022010703

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING HEARING

FEBRUARY 28, 2022

On February 22, 2022, Washington Unified School District filed with the Office of Administrative Hearings, referred to as OAH, a request to continue the hearing of this matter for one day, based upon the ground that counsel for Washington Unified School District is scheduled to appear at a hearing in California Superior Court, Santa Clara County, in another case filed before this case was filed with OAH, on March 15, 2022, the first day of the scheduled hearing in this case. Student did not file an opposition to the request for continuance with OAH.

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. The request is:

Granted. The first day of the currently scheduled hearing, March 15, 2022, is vacated. The continuance request is granted because the unavailability of Washington Unified School District's counsel to attend the hearing in this case on March 15, 2022, constitutes good cause for the requested continuance. This matter will be set as follows:

Due Process Hearing will be held on March 16, 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. All other dates in this case remain on calendar.

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.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings