

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SANTA ANA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100813

ORDER GRANTING, IN PART, AND DENYING IN PART,
REQUEST FOR CONTINUANCE, AND SETTING
PREHEARING CONFERENCE AND HEARING BY
VIDEOCONFERENCE

MARCH 24, 2022

On March 23, 2022, the parties jointly filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon their desire for additional time to engage in further settlement negotiations. The parties' joint request seeks a continuance of the hearing from the current hearing dates of April 5, 2022, through April 7, 2022, to June 1, 2022, through June 2, 2022.

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, in part, and denied in part. All dates are vacated. The continuance request is granted as the parties' desire to engage in further settlement negotiations constitutes good cause for a continuance. However, the parties' joint request fails to provide a reason why a two-month continuance of the hearing is necessary. This case was filed on October 27, 2021. A continuance was granted on December 6, 2021, and

the parties participated in a mediation on February 18, 2022. The parties did not explain why a two-month continuance of the hearing is necessary to conduct settlement negotiations. A one-month continuance of the hearing and prehearing conference provides the parties a reasonable amount of additional time to engage in further settlement negotiations and finalize an agreement. This matter will be set as follows:

Prehearing Conference will be held on May 2, 2022, at 3:00 PM.

Due Process Hearing will be held on May 10, 2022, through May 12, 2022. The hearing shall be held via videoconference using the Microsoft Teams application, and shall begin at 9:30 AM and end about 3:30 PM 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.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings