

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 2021110217

ORDER GRANTING STUDENT'S MOTION FOR
CONTINUANCE AND ORDER SETTING DUE PROCESS
HEARING

MARCH 18, 2022

On March 17, 2022, Student filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon the unavailability of its attorney. On March 17, 2022, Long Beach Unified School District filed notice of non-opposition to Student's motion. The parties submitted attorney declarations.

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).)

Here, Student's counsel, David M. Grey, is in a due process hearing in another, older due process matter, and the hearing is scheduled through March 24, 2022, which overlaps this matter's hearing dates. Also, Mr. Grey is scheduled for hearing in another, older matter beginning March 29, 2022. Mr. Grey is available for a continued hearing any time after April 11, 2022. Long Beach does not oppose the continuance.

Long Beach's attorney Meagan Kinsey is scheduled to go on leave beginning April 15, 2022. The parties indicated at the prehearing conference the hearing will take eight days. Though the parties considered possible continuance dates in June and July 2022, key witnesses for both parties had scheduled prepaid vacations. Long Beach noted that it could not agree to continued hearing dates during April 18 through 22,

2022, because Student's designated witnesses would be on spring break and have pre-planned, pre-paid vacations and unable to participate.

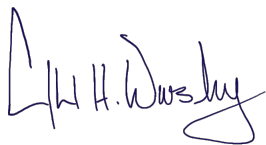
OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is for continuance is granted. all dates are vacated, and the matter is set as follows:

DUE PROCESS HEARING will be held May 3, 4, and 5, 2022.

ANY CHANGES TO THE PARTICIPANTS' EMAIL ADDRESSES PREVIOUSLY PROVIDED BY THE PARTIES MUST BE FILED TWO BUSINESS DAYS BEFORE 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 blue ink, appearing to read "Clifford H. Woosley".

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings