

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

BRENTWOOD UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2022020410

ORDER FOLLOWING PREHEARING CONFERENCE FOR
HEARING BY VIDEOCONFERENCE AND CONTINUING
PREHEARING CONFERENCE AND DUE PROCESS HEARING

MARCH 22, 2022

On March 21, 2022, Administrative Law Judge Robert G. Martin, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Nicole Hodge Amey, Attorney at Law, appeared on behalf of Student. Deborah Ettinger, Attorney at Law, appeared on behalf of Brentwood Union School District, referred to as Brentwood Union. Liberty Union High School District was dismissed from

this matter shortly before the PHC and did not appear at the PHC. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

CONTINUANCE OF DUE PROCESS HEARING

On March 16, 2022, Brentwood Union moved to continue the due process hearing and associated deadlines in this matter to May 31 through June 2, 2022. The hearing was previously set for March 29 and 30, 2022. Brentwood Union's request was based on the unavailability of certain employee witnesses due to pre-paid vacations from March 21, 2022 through April 3, 2022, and the unavailability of Brentwood Union's counsel due to a pre-paid vacation from April 4 through 10, 2022. The motion was timely filed three days prior to the prehearing conference. At the PHC, the attorneys for the parties stated the parties were completing a settlement of the matter. Student did not oppose Brentwood Union's request for a continuance. The matter has not been continued previously.

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).)

The request for continuance was granted at the PHC for good cause. All previously scheduled dates are vacated. The case shall proceed as follows:

PREHEARING CONFERENCE will be held on April 15, 2022 at 1:00 PM.

DUE PROCESS HEARING will be held on April 26 through 28, 2022.

PARTICIPANT INFORMATION SHEETS FOR PREHEARING CONFERENCES MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

All other prehearing matters shall be addressed at the April 15, 2022 PHC. The parties may submit amended prehearing conference statements, but are not required to do so. 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.

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.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Robert G. Martin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert G. Martin

Administrative Law Judge

Office of Administrative Hearings