

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ALAMEDA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022020565

ORDER GRANTING REQUEST FOR CONTINUANCE AND
DENYING DISTRICT REQUEST FOR MEDIATION
WITHOUT PREJUDICE

MARCH 22, 2022

On February 15, 2022, Student filed a Request for Due Process Hearing naming Alameda Unified School District as respondent. On March 21, 2022, Student requested to continue this matter. Alameda filed a notice of non-opposition to the request on March 22, 2022, and also requested that the Office of Administrative Hearings, or OAH, schedule mediation on April 6, 2022.

REQUEST FOR CONTINUANCE

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).)

Student requests the continuance because his counsel withdrew as his representative on February 28, 2022. Student's former counsel filed a Notice of Withdrawal of Counsel on that date. Student asks for time to find a new attorney. This constitutes good cause for a continuance. Alameda does not oppose the request. The continuance is granted.

ALAMEDA'S REQUEST FOR MEDIATION

Along with their notice of non-opposition, Alameda requested that OAH schedule mediation in the case for April 6, 2022. Alameda acknowledged that mediation had not been discussed with Parent and the date had not been jointly selected. OAH denies this request without prejudice. While OAH strongly encourages mediation, mediation is voluntary and requires a joint request. Nothing in this order prevents the parties from submitting a request for mediation in the future.

All previous dates in this matter are vacated. The new dates are:

PREHEARING CONFERENCE will be held on May 13, 2022, at 10:00 AM.

HEARING will be held on May 24, 25, and 26, 2022.

NOTE: OAH has granted a longer than requested continuance to allow time for Student to find an attorney.

PARTICIPANT INFORMATION SHEETS FOR MEDIATION AND PREHEARING CONFERENCES MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF 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, Mondays and Fridays included, 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 evidence of good cause why it was not possible to file the motion by that date.

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.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings