

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
FULLERTON SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022020627

ORDER FOLLOWING PREHEARING CONFERENCE
GRANTING REQUEST FOR CONTINUANCE

MARCH 8, 2022

On March 7, 2022, Administrative Law Judge Cynthia Fritz, Office of Administrative Hearings held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC. Attorney Michelle Sliwa appeared on behalf of Fullerton. Parent Aini Tjauw appeared on behalf of Student. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

At the PHC, the parties jointly moved to continue the due process hearing from March 15, 16, and 17, 2022, to April 12, 13, and 14, 2022. On March 3, 2022, Parent filed a mediation only case with the Office of Administrative Hearings, case number

2022030115. The mediation is set for March 17, 2022, and the case involves similar issues as this matter. The parties would like to participate in the mediation before proceeding with this matter.

The motion was not timely filed three days before the prehearing conference. However, the parties established good cause for making the motion less than three days before the PHC because the mediation in case number 2022030115 was set on March 4, 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).)

The parties established good cause to continue this matter. Accordingly, the parties' request for continuance is granted. All previously scheduled dates are vacated. The case shall proceed as follows:

Prehearing Conference: April 1, 2022, at 1:00 PM via video or telephone.

Due Process Hearing: April 12, 13, and 14, 2022 via video.

PREHEARING CONFERENCE PARTICIPANT INFORMATION SHEETS 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 cursive script that reads "Cynthia Fritz".

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings