

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

and

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT ,
OAH CASE NUMBER 2023110649

ORDER FOLLOWING ORDER TO SHOW CAUSE AND
CONTINUING ORDER TO SHOW CAUSE, PREHEARING
CONFERENCE, AND DUE PROCESS HEARING

JANUARY 22, 2023

On January 12, 2024, the Office of Administrative Hearing ordered Student's counsel to appear for an order to show cause hearing on January 19, 2024, for failing to appear at the January 12, 2024 prehearing conference.

On January 19, 2024, Administrative Law Judge Cynthia Fritz, Office of Administrative Hearings, held a telephonic order to show cause hearing why this matter should not be dismissed for the failure to appear. Attorney Nicole Hodge Amey

appeared on behalf of Student. Attorney Shawn Olson Brown appeared on behalf of West Contra Costa Unified School District.

West Contra Costa's counsel represented that she filed a motion for sanctions approximately one hour before the order to show cause hearing.

Student's counsel was able to review the motion briefly but wanted the ability to review it thoroughly and respond to it, if needed. West Contra Costa did not object to a brief continuance in this matter for that purpose.

Both parties also represented that they have reached a settlement in this matter, and West Contra Costa's counsel represented that she would withdraw the motion should the parties execute the settlement agreement before the continued order to show cause hearing.

OAH must conduct a due process hearing and issue a decision within 45 days of receiving the due process complaint unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Resolving the due process hearing quickly is legally required. Hearings may only be continued if "good cause" is established. (Ed. Code, § 56505, subd. (f)(3).) OAH is guided by the Administrative Procedure Act and the California Rules of Court when ruling on continuance motions. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

The parties established good cause to continue this matter and the request is granted. All dates are vacated. The continued order to show cause hearing is set for January 26, 2024, at 1:00 PM. Student's counsel may file a response to West Contra Costa's motion no later than January 25, 2024.

Should Student's counsel give an adequate explanation for the failure to appear, the prehearing conference will immediately follow the order to show cause hearing on January 26, 2024. The due process hearing is continued to February 13, 14, and 15, 2024.

Prehearing conference statements and motions are due to the Office of Administrative Hearings no later than three business days before the scheduled event. Late motions will only be considered if good cause is established for the late filing.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses, if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

The parties shall immediately inform OAH in writing if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If the parties reach a settlement within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

If a full and final written settlement agreement is reached after 5:00 PM the day before the hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is

reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Cynthia Fritz".

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings