

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
DOWNEY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024020844

ORDER GRANTING REQUEST FOR CONTINUANCE OF DUE
PROCESS HEARING

APRIL 22, 2024

On April 19, 2024, Student filed a request to continue the due process hearing with the Office of Administrative Hearings, called OAH. Downey Unified School District did not file a response. The hearing is scheduled to start on April 23, 2024.

Student contends the hearing should be continued because both parties are engaged in an expedited hearing for OAH case number 2024030247, also scheduled to begin on April 23, 2024. Student asserts that expedited hearings are given statutory preference over non-expedited cases.

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.)

Good cause to continue a hearing may include:

- An essential lay or expert witness is unavailable because of death, illness, or other excusable circumstances;
- A party is unavailable because of death, illness, or other excusable circumstances;
- A party's attorney is unavailable because of death, illness, or other excusable circumstances;
- A new attorney substitutes in, but only if the party establishes that the substitution is required in the interests of justice;
- A new party is added, and the new party has not had a reasonable opportunity to prepare for trial, or other parties have not had a reasonable opportunity to prepare for trial regarding the new party's involvement;
- A party is unable to obtain essential testimony, documents, or other material evidence despite diligent efforts; or
- The case has a significant and unexpected change which makes the case not ready for trial.

Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Student established good cause to continue the due process hearing. The parties are both scheduled to begin an expedited hearing for OAH case number 2024030247 on April 23, 2024, which conflicts with the hearing in this case.

The request is granted. All previously scheduled hearing dates are vacated. The new dates are:

DUE PROCESS HEARING will be held on May 14, 2024, through May 16, 2024.

PREHEARING CONFERENCE will be held on May 3, 2024, at 1:00 PM.

The prehearing conference and due process hearing will be held by videoconference, unless otherwise ordered. The due process hearing will begin at 9:30 AM on all days, and generally end at 3:30 PM, unless otherwise ordered. The hearing will 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. Late motions will only be considered if good cause is established for the late filing.

The parties must immediately give potential witnesses the hearing dates, and must subpoena witnesses, if necessary, so they are 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.

IT IS SO ORDERED.

Deborah Myers Cregar

Deborah Myers-Cregar

Administrative Law Judge

Office of Administrative Hearings