

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

JULIAN CHARTER SCHOOL - PINE HILLS.
OAH CASE NUMBER 2024030668

ORDER GRANTING REQUEST FOR CONTINUANCE

APRIL 17, 2024

On April 12, 2024, Julian Charter School-Pine Hills, called Julian Charter, filed a request to continue the due process hearing with the Office of Administrative Hearings, called OAH. On April 16, 2024, Student filed a partial opposition to Julian Charter's continuance request. The due process hearing in this matter is scheduled for May 7, through May 9, 2024.

Julian Charter requests the continuance because the attorney assigned to this matter will be in another due process hearing before OAH on an earlier-filed matter that will take priority. In addition, both the law firm's other assigned attorney and a key witness are unavailable the week of the scheduled hearing. Three sworn declarations by Julian Charter's attorneys and key witness are attached to the request. Julian Charter

requests OAH continue the due process hearing to June 4, through 6, 2024, with a prehearing conference on May 27, 2024.

Student does not oppose the hearing continuance to June 4, through 6, 2024, but requests the prehearing conference be scheduled on May 24, 2024, as May 27, 2024, is a State holiday.

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).)

Julian Charter established good cause to continue the due process hearing due to the unavailability of its attorneys and a key witness. The request is granted. OAH is dark on May 27, 2024, and the prehearing conference will be scheduled as requested by Student. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on May 24, 2024, at 10:00 AM.

DUE PROCESS HEARING will be held on June 4, through 6, 2024.

The prehearing conference and due process hearing will be held by videoconference or telephone, 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, 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. Failing to properly notify or subpoena a witness is not good cause to delay the hearing.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings