

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

TRES PINOS UNION ELEMENTARY SCHOOL DISTRICT

AND

SAN BENITO COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2024030722

ORDER DENYING REQUEST FOR CONTINUANCE OF
PREHEARING CONFERENCE AND DUE PROCESS HEARING

APRIL 24, 2024

REASON FOR DENIAL:

The Offices of Administrative Hearings is called OAH. On April 16, 2024, San Benito County Department of Education filed for a motion to continue the due process hearing date of May 7, 8 and 9, 2024 because of a scheduling conflict with OAH case number 2024020041. Tres Pinos Unified School District filed a non-opposition on April 16, 2024. Student did not file a response.

On April 22, 2024, Student in OAH case number 2024020041 filed with OAH a notice of settlement pending board approval and vacated the due process hearing dates of May 7, 8 and 9, 2024.

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).)

The scheduling conflict was resolved because OAH case number 2024020041 settled. The motion is moot, and therefore is denied. The prehearing conference and due process hearing dates remain as scheduled.

IT IS SO ORDERED.

Thanayi Lindsey
Thanayi Lindsey (Apr 25, 2024 09:22 PDT)

Thanayi Lindsey

Administrative Law Judge

Office of Administrative Hearings