BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021040489

ORDER GRANTING REQUEST TO RESCHEDULE MEDIATION AND CONTINUANCE OF PREHEARING CONFERENCE AND DUE PROCESS HEARING

JUNE 25, 2021

On April 13, 2021, Student filed with the Office of Administrative Hearings, referred to as OAH, a request for due process hearing. On April 28, 2021, OAH granted the parties' joint request for a June 4, 2021 mediation and a continuance of the hearing from June 8 through 10, 2021 to July 20 through 22, 2021.

On June 3, 2021, Student's attorney cancelled the June 4, 2021 mediation. On June 8, 2021, OAH granted the parties' joint request for a June 25, 2021 mediation.

On June 23, 2021, Oakland Unified School District filed a request to reschedule the June 25, 2021 mediation and continue this matter, based upon Oakland's engagement in hearing in an older OAH case on July 20 through 22, 2021, and Student counsel's health issues. Oakland also claims its district's representative is unable to attend the June 25, 2025 mediation due to family obligations and its counsel's attendance at meetings. Oakland asserts that the soonest both parties are available for mediation is July 6, 2021, but that date does not provide the parties with enough time to prepare for hearing on the current hearing dates. Oakland requests to reschedule the mediation to July 6, 2021 and a continuance of the hearing to August 31 through September 2, 2021. Oakland states that Student's counsel does not oppose the continuance.

On June 23, 2021, Student's counsel filed a declaration in support of the motion to continue and reset the mediation, on the grounds that he had surgery on June 9, 2021 and his recovery is slower than anticipated, and because of other health issues. Although Student's counsel would prefer a later mediation date, he is agreeable to continuing it to at least July 6, 2021, and joins in the motion to continue the hearing in the hope that some of his lingering health issues may be resolved by then.

On June 24, 2021, OAH cancelled the June 25, 2021 mediation.

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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The unspecified family obligations of Oakland's representative and counsel's attendance at meetings are not good cause to reschedule the mediation. The parties jointly agreed to a June 25, 2021 mediation date. However, Student's counsel's health issues are good cause to reschedule the mediation to July 6, 2021 and continue the hearing from July 20 to August 31, 2021. In addition, Oakland and its counsel are unavailable on the current hearing dates due to an older case set for hearing on the same dates, OAH Case No. 2020120240. OAH does not contemplate any further continuances. The request is:

Granted. All dates are vacated. This matter will be set as follows:

MEDIATION DATE is July 6, 2021, 9:00 AM to 4:30 PM.

MEDIATION will occur via telephone or video.

PREHEARING CONFERENCE will be held on August 20, 2021 at 3:00 PM.

DUE PROCESS HEARING will be held on August 31 through September 2, 2021.

PARTICIPANT INFORMATION SHEETS FOR MEDIATION AND PREHEARING CONFERENCES MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

ANY CHANGES TO THE PARTICIPANTS' EMAIL ADDRESSES PROVIDED BY THE PARTIES IN THEIR REQUEST 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.

Laurie Gorsline

Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings