BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

REDONDO BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024080334

OAH CASE NUMBER 2024070777

ORDER GRANTING REQUEST FOR CONTINUANCE OF DUE PROCESS HEARING

DECEMBER 3, 2024

On December 3, 2024, Administrative Law Judge Rommel P. Cruz, Office of Administrative Hearings, convened a due process hearing by videoconference. The Office of Administrative Hearings is called OAH. An Administrative Law Judge is called an ALJ.

Attorney Deanna Sweeney appeared by telephone on behalf of Student. Parent could not attend because Parent was ill.

Attorney Sundee Johnson appeared on behalf of Redondo Beach Unified School District. Executive Director of Special Education Danielle Duncan attended on behalf of Redondo Beach Unified.

On December 2, 2024, Student filed a request to continue the due process hearing for three reasons. First, Student contends a continuance is warranted because Redondo Beach Unified failed to meet and confer with Student as ordered in the November 25, 2024 Order Following Prehearing Conference for Hearing by Videoconference, referred to as the November 25, 2024 PHC Order. Student argues Redondo Beach Unified failed to provide Student with a witness list detailing the order and time Redondo Beach Unified intends to present its witnesses.

Second, Student contends a continuance is necessary because Redondo Beach Unified identified exhibits and witnesses Student believes are not relevant to the issues to be heard and decided in the consolidated matters. Student argues the new exhibits identified, and potential testimony of matters beyond the issues will require additional time for Student to investigate.

Third, Student contends a continuance is necessary because Sweeney is unavailable to proceed with the hearing because of an urgent family emergency that requires Sweeney to travel out of state to attend to. Student included a declaration by Sweeney in support of the continuance request.

Student requested to continue the hearing to January 21, 22, and 23, 2025. Student also requested to schedule another prehearing conference on January 6, 2025.

At the hearing, Redondo Beach Unified expressed the urgency of resolving the issue raised in Redondo Beach Unified's due process hearing request, but did not object to the continuance request because of Sweeney's family emergency.

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's request for a continuance based on the first two reasons is denied. A failure on the parties to meet and confer to develop a joint witness schedule is not good cause of a continuance. Furthermore, as ordered in the November 25, 2024 PHC Order, each party was required to prepare a separate written witness schedule in the event the parties were unable to reach an agreement. Student did not prepare a written witness schedule regardless of the parties' failure to meet and confer. Therefore, a continuance of the hearing based on Redondo Beach Unified's alleged failure to provide Student with a proposed witness schedule is denied.

In addition, a party's identification of exhibits and witnesses that may involve evidence outside the issues to be heard and decided is not good cause to continue the due process hearing. A party may raise an objection during the hearing as to any exhibit or testimony that the party claims is not relevant to the issues. The objection can be addressed as needed during the hearing. Therefore, Redondo Beach Unified's mere identification of exhibits and witnesses that Student claims may not be relevant is not good cause to continue the hearing.

Student established good cause for a continuance based on Sweeney's unavailability to proceed with the hearing because of an urgent family emergency. Good cause is also established because Parent was not available to proceed with hearing because of an illness. Accordingly, the request for continuance is granted. All dates are vacated.

However, Student failed to establish good cause to continue the hearing to begin on January 21, 2025. Student failed to explain why the hearing could not begin sooner. Student also failed to demonstrate why another prehearing conference is necessary. Therefore, the request to schedule another prehearing conference is denied.

The hearing shall proceed as follows:

The hearing will take place on January 7, 8, and 9, 2025, and continue day to day at the discretion of the ALJ. At the hearing, neither party objected to these hearing dates.

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, Mondays and Fridays included, at the discretion of the ALJ. Prehearing motions are due five business days before the first day of hearing.

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.

The parties are ordered to meet and confer no later than January 3, 2025, to discuss scheduling witnesses and how much time each witness will take.

Student is reminded to follow the instructions in the Order Setting Procedures for Filing Exhibits Electronically to timely upload hearing exhibits to the Case Center electronic evidence software. The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

This Order includes all rulings made at the December 3, 2025 hearing. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties.

All orders not in conflict remain in full force and effect.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings