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 DENYING REQUEST FOR MEDIATION AND CONTINUANCE OF THE HEARING

SEPTEMBER 12, 2024

On July 23, 2024, Redondo Beach Unified School District, referred to as District, filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Student. The Office of Administrative Hearings is referred to as OAH. The case filed by District is called District's Case.

On July 30, 2024, OAH granted the parties joint request for an August 22, 2024, mediation and a continuance of the hearing in District's Case to October 15 through 17, 2024.

On August 8, 2024, Student filed a Due Process Hearing Request with OAH, naming District. The case filed by Student is called Student's Case. OAH set Student's Case for hearing on September 24 through 26, 2024.

On August 13, 2024, granted Student's unopposed motion to consolidate District's Case with Student's Case and designated Student's Case as the lead case. OAH ordered that the consolidated matter proceed to hearing on the dates in Student's Case, vacating the dates in District's Case, except for the August 22, 2024, mediation date. The consolidation motion did not include a request that the consolidated matter be continued to the October 2024 hearing dates in District's Case.

On August 22, 2024, OAH cancelled the mediation when Student failed to appear.

On September 11, 2024, the parties filed a joint motion for a continuance of the hearing to October 15 through 17, 2024, to allow the parties to participate in mediation on September 30, 2024, and because District's representative is unavailable on September 25 and 26, 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 parties have failed to establish good cause to reset the mediation or continue the due process hearing. The consolidated matter was set for mediation on August 22, 2024, and was never cancelled by the parties. Student failed to appear at the mediation, and the joint request offers no explanation for this failure. Since the parties have failed to justify setting a second mediation date, there is no basis for a continuance of the hearing on this ground.

The parties assert that the "District's representative is unavailable" on September 25 and 26, 2024, however, this vague statement is insufficient to meet the good cause

requirement necessary for a continuance, much less the length of the requested continuance. There is no declaration attached to the papers or any explanation as to why the unidentified District representative is unavailable. The parties have also failed to explain why another District representative could not stand in their stead during these two days.

The request to reset the mediation for September 30, 2024, is denied. The request for a continuance of the hearing is also denied. The parties may promptly file a new request addressing the deficiencies discussed above.

All prehearing conference and due process hearing dates are confirmed and will proceed as calendared.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings