BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ATASCADERO UNIFIED SCHOOL DISTRICT AND SAN LUIS OBISPO COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2025010625

ORDER SETTING MEDIATION DATE AND CONTINUING NON-EXPEDITED PREHEARING CONFERENCE AND DUE PROCESS HEARING

MARCH 26, 2025

On March 21, 2025, Student and Atascadero filed a joint request for a mediation that does not include the County Office of Education. OAH has not received any response from the County Office.

This matter is now scheduled for Prehearing Conference (called a PHC) on March 28, 2025, and for non-expedited due process hearing on April 8, 9, and 10, 2025.

Student and Atascadero have selected the morning of April 1, 2025, as the proposed mediation date.

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 and Atascadero have established good cause for a mediation, but the date they have selected falls between the PHC and the non-expedited hearing. OAH generally does not set mediations after prehearing conferences because, if the mediation were to succeed, all the resources of the parties and the agency to prepare for and conduct the PHC will have been consumed unnecessarily. OAH will therefore continue the PHC and hearing on its own motion in order to accommodate the mediation.

The request for a mediation limited to Student and Atascadero is granted. All previously scheduled dates are vacated. The new dates are:

MEDIATION will be held on April 1, 2025, from 9:00 AM to 12:30 PM.
PREHEARING CONFERENCE will be held on April 11, 2025, at 10:00 AM
DUE PROCESS HEARING will be held on April 22, 23, and 24, 2025.

The mediation, 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, as needed, Mondays and Fridays included, 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.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings