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 JOINT REQUEST TO SCHEDULE VIDEOCONFERENCE MEDIATION AND CONTINUE DUE PROCESS HEARING

SEPTEMBER 13, 2024

On July 23, 2024, Redondo Beach Unified School District, referred to as Redondo Beach, 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 Redondo Beach is called Redondo Beach'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 Redondo Beach's Case to October 15 through 17, 2024.

On August 8, 2024, Student filed a complaint with OAH naming Redondo Beach. 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, OAH granted Student's unopposed motion to consolidate Redondo Beach's Case with Student's Case and designated Student's Case as the primary case. OAH ordered that the consolidated matter proceed to hearing on the dates in Student's Case and vacated the dates in Redondo Beach'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 Redondo Beach'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 Redondo Beach's representative is unavailable on September 25 and 26, 2024.

On September 12, 2024, OAH denied the parties' request for mediation and continuance of the due process hearing because the joint request did not explain why Student failed to appear at the mediation or why Redondo Beach's unnamed representative was unavailable for the hearing on September 25 and 26, 2024.

On September 13, 2024, the parties filed a revised joint request to schedule mediation and continue the due process hearing. The joint request was supported by a declaration under penalty of perjury by Student's attorney.

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 established good cause to schedule a mediation and continue the due process hearing. Student's attorney established she was unaware of the August 22, 2024 mediation and took responsibility for Student's failure to appear. As a result, the parties have not yet had an opportunity to participate in mediation and request a three-week continuance to allow them an opportunity to resolve the dispute through mediation.

The request is granted. All previously scheduled dates are vacated. The new dates are:

MEDIATION will be held on September 30, 2024, 1:30 p.m. to 5:00 p.m.

PREHEARING CONFERENCE will be held on October 7, 2024, at 1:00 p.m.

DUE PROCESS HEARING will be held on October 15, 16, and 17, 2024.

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.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings