

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN CARLOS SCHOOL DISTRICT.
OAH CASE NUMBER 2021080215

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING
CONFERENCE AND HEARING

SEPTEMBER 14, 2021

On August 6, 2021, Student filed with the Office of Administrative Hearings, referred to as OAH, a request for due process hearing naming San Carlos School District as respondent. On September 13, 2021, the parties jointly filed a request for mediation on October 13, 2021, and a joint request to reschedule the due process hearing dates to January 25, 26, and 27, 2021.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the

due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

The parties requested the hearing be continued to January 25, 2022. The requested continuance is more than 60 days following the proposed mediation date. Accordingly, good cause must be established for the continuance length requested. The parties provided a joint stipulation in support of the request. First, Student is scheduled to undergo complex neurosurgery in mid-November or early December. It is anticipated the recovery will be between four and six weeks. Additionally, San Carlos' counsel cites two potentially conflicting hearings should the matter be set within 60 days of the mediation.

The parties did not establish good cause based on the potentially conflicting cases. They are later filed matters and this matter takes priority. Additionally, the conflict is speculative at this point. However, the parties did establish good cause for the continuance requested based on Student's impending surgery and expected recovery. The parties are advised, however, that any further request for continuance will require a showing of extraordinary good cause. Additionally, should Student's surgery or recovery be the basis for any additional requests, the parties are advised that any additional motions must be accompanied by medical documentation.

All previously scheduled dates in this matter are hereby vacated. This matter will be set as follows:

MEDIATION will be held on October 13, 2021, at 9:00 AM.

MEDIATION will occur via videoconference or telephone.

PREHEARING CONFERENCE will be held on January 14, 2022, at 10:00 AM.

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

DUE PROCESS HEARING will be held on. January 25, 26, and 27, 2022.

The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, as needed, including Mondays and Fridays, at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or subpoena a witness. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with evidence of good cause establishing why it was not possible to file the document by that date.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings