

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:
PARENT ON BEHALF OF STUDENT,

and

CABRILLO POINT ACADEMY,
OAH CASE NUMBER 2021080404
OAH CASE NUMBER 2021050168

ORDER FOLLOWING PREHEARING CONFERENCE FOR
HEARING BY VIDEOCONFERENCE, CONTINUING
CONSOLIDATED DUE PROCESS HEARING AND SETTING
MEDIATION

SEPTEMBER 24, 2021

On September 24, 2021, Administrative Law Judge Alexa Hohensee, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Lauren-Ashley Caron, Attorney at Law, appeared on behalf of Student. Courtney Brady, Attorney at Law, appeared on behalf of Cabrillo Point Academy. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

CONSOLIDATED DUE PROCESS HEARING

On the record, the parties established good cause for a continuance. Counsel for Cabrillo had a schedule conflict, and both parties wanted an opportunity to mediate the issues raised in Student's complaint, which had not been filed until days before these cases were consolidated. However, in light of the age of Cabrillo's case, no further continuances are contemplated.

The prehearing conference will take place at 1:00 pm on November 8, 2021. The parties shall file revised prehearing conference statements. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with a showing of good cause why it was not timely filed.

The consolidated hearing will take place on November 16, 2021 through November 18, 2021, and continue day to day at the discretion of the ALJ. The hearing will begin at 9:30 am each day and generally end at 3:30 pm, unless otherwise ordered. The parties anticipate it will take two to six days to complete the hearing. Additional hearing dates will be discussed with the ALJ during the hearing.

HEARING LOCATION

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Based on state and federal guidance to address safety procedures due to the novel coronavirus, COVID-19, OAH

will conduct the due process hearing by videoconference using the Microsoft Teams application. Unless otherwise ordered, participants are required to appear by videoconference using a webcam and Microsoft Teams.

The parties must immediately notify all potential witnesses of the hearing dates and must subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena>.

MEDIATION

The mediation will take place on September 29, 2021, from 9:00 am to 4:30 pm. The mediation will take place by videoconference and telephone.

ANY CHANGES TO THE PARTICIPANTS' EMAIL ADDRESSES PROVIDED BY THE PARTIES IN THEIR SEPTEMBER 21, 2021 REQUEST MUST BE FILED TWO BUSINESS DAYS BEFORE THE SCHEDULED EVENT

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties must inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties must also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the

signed agreement or a letter withdrawing the case to OAH at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled prehearing conference unless different arrangements have been agreed upon by the assigned ALJ.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties must provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. 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.

The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings