

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080635

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

SEPTEMBER 16, 2021

On August 20, 2021, Student filed a request for due process hearing with the Office of Administrative Hearings, called OAH, naming Sacramento City Unified School District. This matter is currently scheduled for hearing beginning September 28, 2021.

On September 15, 2021, Sacramento City filed a request to schedule mediation and to continue the hearing dates. The request is supported by several affidavits. Sacramento City represents the parties agreed to request a mediation date of

September 27, 2021, but did not agree to continuance dates. Sacramento City requests a continuance to November 9, 2021, because of counsel's conflicting due process hearing schedule. This is the first request to continue this matter.

On September 16, 2021, Student filed a non-opposition to scheduling mediation for September 27, 2021. However, Student opposed continuing the hearing to November 2021. Student requests the hearing be continued to either the week of October 12, 2021, or October 26, 2021. Student argues he will be prejudiced by a longer continuance and that the law firm representing Sacramento City has many other attorneys it could assign to this matter.

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 for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness, or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).)

OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served

by the continuance or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

Granted. All dates are vacated. The parties established good cause to continue the hearing dates to afford them an opportunity to participate in mediation. Sacramento City established that its counsel is unavailable for hearing the weeks proposed by Student because of conflicting hearing schedules with earlier-filed due process matters. This matter will be set as follows:

Mediation will be held on September 27, 2021, from 9:00 a.m. until 4:30 p.m. via videoconferencing.

Prehearing Conference will be held on November 1, 2021, at 1:00 p.m.

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 why it was not possible to file the motion by that date.

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 November 9, and 10, 2021. The hearing shall begin at 9:30 a.m. on all days unless otherwise ordered. The hearing shall continue day to day, as needed 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.

IT IS SO ORDERED.

Theresa Ravandi

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Administrative Law Judge

Office of Administrative Hearings