

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:
PARENT ON BEHALF OF STUDENT

AND

RIVER SPRINGS CHARTER SCHOOL.

OAH CASE NUMBER 2021050302

OAH CASE NUMBER 2021060381

ORDER GRANTING MOTION FOR VIDEOCONFERENCE
MEDIATION AND CONTINUANCE OF DUE PROCESS
HEARING

NOVEMBER 04, 2021

On May 10, 2021, Parent on behalf of Student filed with the Office of Administrative Hearings, known as OAH, a request for due process hearing in OAH case number 2021050302, naming River Springs Charter School. Parent was an unrepresented litigant. On June 15, 2021, OAH granted the parties' joint request for mediation on August 5, 2021, and a continuance of the due process hearing to October 5 through 7, 2021.

On June 10, 2021, River Springs filed a request for due process hearing in OAH case number 2021060381, naming Parent on behalf of Student. On June 25, 2021, OAH granted River Springs' motion to consolidate its case with Student's case, maintaining the dates in Student's case for the mediation, prehearing conference, and due process hearing for both cases. On August 3, 2021, River Springs Charter School cancelled the mediation, but did not provide OAH with an explanation.

On September 21, 2021, attorney Michael T. Stoller filed a notice of representation for Parent on behalf of Student. On September 23, 2021, OAH granted Student's unopposed motion to amend Student's complaint. OAH issued a new scheduling order, setting the prehearing conference for November 8, 2021 and the hearing for November 16 through 18, 2021.

On October 26, 2021, the parties timely filed a joint request to reschedule the mediation for November 17, 2021 and to continue the due process hearing to January 25, 2022. OAH denied the request, noting that the parties had not provided OAH with an explanation for the initial mediation's cancellation and the reasons the parties seek a continuance to late January 2022.

On October 28, 2021, Student filed a renewed request for mediation and continuance, supported by declarations. On November 3, 2021, River Springs filed a statement of non-opposition to Student's renewed request for mediation and continuance, supported by River Springs' attorney declaration.

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).)

CANCELLATION OF MEDIATION

Here, the parties have provided sufficient reasons for the cancellation of the August 5, 2021 mediation. River Springs attorney informed Parent of the need to cancel and reschedule the mediation and Parent's advocate responded that the cancellation was appropriate since Parent was ill with COVID-19. There was sufficient cause to cancel the August 5, 2021 medication.

LENGTH OF CONTINUANCE REQUESTED

After Student's retention of an attorney and the amendment of Student's complaint, the parties agreed to a new mediation date of November 17, 2021. The

parties seek to continue the hearing to January 25, 2021, and both parties agree to the requested continuation date. River Springs' attorney is calendared for other hearings and appellate arguments through January 2022. Though the requested continuance means the matter will not go to hearing, if necessary, more than six months after the Student's initial filing of the complaint, Student has had an attorney for only six weeks. The parties wish to mediate, especially now that Student is represented by counsel and additional issues were included in Student's amended complaint.

Here, the parties have demonstrated good cause. The motion is granted. However, the parties are on notice that this case will have been pending for eight months by the time it proceeds to hearing. Accordingly, no further continuances will be granted, absent extraordinary good cause. All dates are vacated. This matter will be set as follows:

MEDIATION will be held on November 17, 2021, 9:00 AM to 4:30 PM.

PREHEARING CONFERENCE will be held on January 14, 2022, at 3:00 PM.

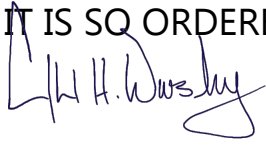
DUE PROCESS HEARING will be held January 25, 26, and 27, 2022.

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

The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, as needed 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 or with a showing of good cause why it was not timely filed.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley", written over the typed name.

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings