

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

GROSSMONT UNION HIGH SCHOOL DISTRICT, SAN DIEGO
UNIFIED SCHOOL DISTRICT AND SAN DIEGO COUNTY OFFICE OF
EDUCATION.

OAH CASE NUMBER 2021060238

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

NOVEMBER 30, 2021

On November 30, 2021 all parties to this case filed with the Office of Administrative Hearings, referred to as OAH, a joint request to set a second mediation and continue the hearing of this matter for a third time. On October 22, 2021, a scheduling order was issued after Student's motion to file an amended complaint was granted, pushing the hearing dates to December 14, 2021, through December 16, 2021.

The parties did not provide a reason for their third requested continuance and second requested mediation. A mediation was held in this case on July 29, 2021. San Diego County Office of Education did not participate in the mediation because it was added as a respondent in the amended complaint on October 22, 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 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 request for a second mediation and a continuance is granted only because San Diego County Office of Education did not have an opportunity to participate in the first mediation because it was not a party to this case when that mediation was held on July 29, 2021. The continuance is not granted to the hearing dates requested by the parties, because good cause was not shown why the hearing of this matter should be delayed to February 22, 2022, through February 24, 2022.

This case was initially filed with OAH on June 3, 2021, and must proceed to hearing without further delay. This matter will be set as follows:

Mediation will be held on January 3, 2022, at 9:00 AM to 4:30 PM. The mediation will be held via videoconference using the Microsoft Teams application.

Prehearing Conference will be held on January 14, 2022, at 1:00 PM.

Due Process Hearing will be held via videoconference using the Microsoft Teams application on January 25, 2022, through January 27, 2022. The hearing shall begin at 9:30 AM on all days, and generally end about 3:30 PM, 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 if the party has failed to properly notify or subpoena a witness. Prehearing conference statements and motions are due to be filed with OAH no later than three business days before the prehearing conference, or with support by a declaration given under penalty of perjury establishing good cause why it was not possible to timely file the motion by that date.

No further continuances of the hearing in this case will be granted, absent proof establishing extraordinary circumstances which require a further continuance.

IT IS SO ORDERED.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings