

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

GLENDALÉ UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021061032

ORDER FOLLOWING PREHEARING CONFERENCE
GRANTING REQUEST FOR CONTINUANCE

NOVEMBER 9, 2021

On November 8, 2021, Administrative Law Judge Claire Yazigi, Office of Administrative Hearings, held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC. Surisa Rivers, Attorney at Law, appeared on behalf of Student. Katherine Grant, Attorney at Law, appeared on behalf of Glendale Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

The parties jointly moved to continue the prehearing conference and due process hearing based on a request for mediation.

On July 27, 2021, OAH granted the parties' joint request for mediation and continuance of due process hearing. On September 29, 2021, the parties requested that mediation in this matter be rescheduled due to Student's counsel's unforeseen travel, and that the due process hearing be continued until January 11, 2022. OAH denied this request because the parties did not establish good cause to reschedule mediation nor good cause for the length of the continuance requested, and mediation was canceled. At PHC, the parties renewed their joint request for mediation and that the due process hearing be continued until December 28, 2021.

The motion was not filed three days before the PHC. The day of the PHC, Student received a communication from Glendale's counsel that renewed Student's belief that mediation would be beneficial toward potentially achieving settlement in this case, given the number and complexity of the issues. Good cause exists as to why this request was made less than three days before PHC.

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).)

In discussion with the parties at PHC, Student provided further detail about the circumstances of the unforeseen travel that caused Student's counsel to be unavailable on the initial date set for mediation. Good cause exists to reschedule mediation in this matter. The parties did not, however, establish good cause for the length of time requested for continuance of the due process hearing.

The request for continuance is granted. All previously scheduled dates are vacated. The case shall proceed as follows:

MEDIATION DATE is November 16, 2021, 9:00 AM to 4:30 PM.

MEDIATION will occur via telephone or video.

PREHEARING CONFERENCE will be held on November 29, 2021, at 10:00 AM.

DUE PROCESS HEARING will be held on December 7, 8, and 9, 2021.

The hearing shall begin at 9:30 AM on each day unless otherwise ordered. The hearing shall continue day to day at the discretion of the ALJ.

All other prehearing matters shall be addressed at the DATE prehearing conference. ALL PREHEARING MOTIONS MUST BE FILED THREE BUSINESS DAYS BEFORE PHC.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

SETTLEMENT

The parties shall immediately inform OAH in writing if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If the parties reach a settlement within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

If a full and final written settlement agreement is reached after 5:00 PM the day before the hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party. 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 by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

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

FAILURE TO COMPLY

Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

Claire Yazigi

Claire Yazigi

Administrative Law Judge

Office of Administrative Hearings