

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

NATIONAL SCHOOL DISTRICT.
OAH CASE NUMBER 2021090575

ORDER GRANTING REQUEST FOR SECOND
VIDEOCONFERENCE MEDIATION AND CONTINUANCE OF
PREHEARING CONFERENCE AND DUE PROCESS HEARING

NOVEMBER 18, 2021

On September 17, 2021, Parents on behalf of Student filed a due process hearing request, referred to as a complaint with the Office of Administrative Hearings naming National School District. The Office of Administrative Hearings is referred to as OAH.

On October 6, 2021, the parties filed a Joint Request to Schedule Mediation and Continuance of Due Process Hearing. OAH issued an Order Granting Request for Videoconference Mediation and Continuance of Due Process Hearing on October 7, 2021. The parties participated in mediation on November 10, 2021 but did not resolve

the dispute. The prehearing videoconference is currently scheduled for November 22, 2021, and the due process hearing is scheduled for December 7 through 9, 2021.

On November 17, 2021, the parties filed a Joint Motion to Continue Prehearing Conference and Due Process Hearing. The basis of the parties' request is that they continue to work in good faith to reach a settlement of this dispute, and they do not wish to unnecessarily expend funds to participate in the prehearing videoconference and prepare for the due process hearing. The parties believe that a second mediation would be beneficial in assisting the parties in finalizing settlement terms and request that OAH schedule a second mediation.

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).)

The parties' Joint Motion to Continue Prehearing Conference and Due Process Hearing is granted for good cause. All previously scheduled dates are vacated. The case shall proceed as follows:

MEDIATION DATE is December 3, 2021, 9:00 am to 4:30 pm.

MEDIATION will occur via telephone or video.

PREHEARING VIDEOCONFERENCE will be held on January 7, 2022, at 3:00 pm.

DUE PROCESS HEARING BY VIDEOCONFERENCE will be held on January 19 and 20, 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 videoconference statements and motions are due to OAH no later than three business days before the prehearing videoconference or with a showing of good cause why it was not timely filed.

The parties shall immediately notify all potential witnesses of the hearing dates and shall 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.

No further continuances shall be granted in this matter absent a showing of good cause supported by declaration.

IT IS SO ORDERED

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings